



An
Bord
Pleanála

Inspector's Report ABP-309798-21.

Development

1. Subdivision (change of use) of existing two-storey over basement terraced house into 2 separate dwelling units.
2. Alterations to existing openings to front façade.
3. Alterations to modern lower ground floor extension to rear.
4. Construction of new upper ground floor rear extension.
5. Demolition of existing mews.
6. Construction of a new 2 storey mews dwelling.
7. All associated site works and landscaping

Location

2 Mander's Terrace, Ranelagh, Dublin 6.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

4035/20.

Applicant(s)

Carl Egan & Emer Shields.

Type of Application

Permission.

Planning Authority Decision

Split decision.

Type of Appeal	First Party
Appellant(s)	Carl Egan & Emer Shields
Observer(s)	None.
Date of Site Inspection	13/05/2021.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The appeal site is located within Manders Terrace which lies to the south of Ranelagh Road. The terrace is accessed off Ranelagh Road and is located in close proximity to the Ranelagh Luas stop. The area comprises primarily residential uses, with more commercial and mixed uses note towards Ranelagh Village. I also note that there are a number of recreational amenities in the vicinity of the site.
- 1.2. Manders Terrace is a cul-de-sac which is set back from the public road with an area of open space and car parking located between the road and the terrace. The terrace comprises 9 no. 3 bay, two storey over basement, brick fronted dwellings. The houses in the terrace are protected structures.
- 1.3. The site has a stated area of 0.0531 hectares and No. 2 Manders Terrace is a mid-terrace house which has been extended and altered to the rear. The house includes a large garden extending to the rear laneway which provides access to the rear of all the houses in the terrace. Access to the laneway is via a 3m wide gate located immediately adjacent to No. 1 Manders Terrace. The laneway at the entrance rises to approximately 3.1m in height with a room overhead. At the end of the garden, the applicants constructed a small shed which is used as a craft room / storage room.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for development relating to a PROTECTED STRUCTURE:
 - 1) Subdivision (change of use) of existing two-storey over basement terraced house into 2 no. separate dwelling units: main dwelling reduced to upper ground and first floor three-bedroom unit, with lower ground floor two-bedroom unit ancillary to existing dwelling; both with own door access front door;
 - 2) Alterations to existing openings to front facade (lower ground floor) and rear facade (upper ground floor);
 - 3) Alterations to modern lower ground floor extension to rear;

- 4) Construction of new upper ground floor extension to rear, to include terrace and access to rear garden;
- 5) Demolition of existing mews structure at rear of site;
- 6) Construction of 1 no. new two-storey two bedroom detached mews dwelling unit at rear of site, ancillary to existing dwelling, including first floor terrace to south, rooflight to east, and access to rear garden of main house, with own door access via lane shared by residents of Mander's Terrace and 38-40 Charleston Road;
- 7) Complete with all associated site works and landscaping, to include rainwater harvesting tank, geothermal heat pump and locally adjusted ground levels, all at 2 Mander's Terrace, Ranelagh, Dublin 6.

2.2. The application included a number of supporting documents including as follows;

- Plans, particulars and completed planning application form,
- Planning Report
- Architectural Heritage Impact Assessment

2.2.1. The Board will note that included with the Planning Report, are a number of appendices which include as follows:

Appendix A: Aerial Photography Context.

Appendix B: Photomontages depicting the proposed mews building on the site.

Appendix C: A legal opinion on common area and parking arrangements.

Appendix D: Preliminary Construction Management Plan for the construction of the mews dwelling.

Appendix E: Tree Report

2.2.2. The Board will note that included with the Architectural Heritage Impact Assessment, are a number of appendices which include as follows:

Appendix A: Photographic Record.

Appendix B: Plan drawings existing / proposed.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to issue a split decision in relation to the proposed development and to grant planning permission for the following elements, subject to 11 conditions:

- 1) Subdivision (change of use) of existing two-storey over basement terraced house into 2 no. separate dwelling units: main dwelling reduced to upper ground and first floor three-bedroom unit, with lower ground floor two-bedroom unit ancillary to existing dwelling; both with own door access front door;
- 2) Alterations to existing openings to front facade (lower ground floor) and rear facade (upper ground floor);
- 3) Alterations to modern lower ground floor extension to rear;
- 4) Construction of new upper ground floor extension to rear, to include terrace and access to rear garden;
- 5) Demolition of existing mews structure at rear of site;

The decision included the following conditions:

3. This permission excludes the following elements of the proposed development:

- 6) Construction of 1 no. new two-storey two bedroom detached mews dwelling unit at rear of site, ancillary to existing dwelling, including first floor terrace to south, rooflight to east, and access to rear garden of main house, with own door access via lane shared by residents of Mander's Terrace and 38-40 Charleston Road;

For the reasons stated in the refusal schedule.

Reason: For the avoidance of doubt as to the elements granted permission.

4. The development hereby granted planning permission shall be revised as follows;

- a) All new openings in historic walls shall be limited to 3m as a maximum and retain 300mm min either side of the opening.
- b) The new partition between bedroom No. 2 at lower ground floor level and the wet room shall be moved to the edge of the chimney-breast in order to ensure that the chimney breast remains legible.
- c) The proposed WC in the entrance hall shall be omitted from the scheme.
- d) All existing historic boundary walls shall be retained.

The development shall not commence until revised plans, drawings and particulars showing the above amendment have been submitted to and agreed in writing by the Planning Authority.

Reason: To ensure that the integrity and special characteristics of this protected structure are maintained.

3.1.2. The Planning Authority decided to refuse planning permission for the following element of the development for the following stated reason:

- 6) Construction of 1 no. new two-storey two bedroom detached mews dwelling unit at rear of site, ancillary to existing dwelling, including first floor terrace to south, rooflight to east, and access to rear garden of main house, with own door access via lane shared by residents of Mander's Terrace and 38-40 Charleston Road;

The mews development does not comply with the Dublin City Development Plan 2016-2022, Section 16.10.16 'Mews Dwellings', in terms of the width of the existing laneway. The proposed laneway is of a substandard width for a potential mews laneway. The development would alter the existing laneway, a laneway with substandard and restricted access and result in increased pedestrian, cyclist and vehicle use and conflict. The development would set an undesirable precedent. The mews development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the City Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening and EIA Screening Report.

The planning report notes the concerns of the Conservation Officer and Transportation Planning Division of Dublin City Council and concludes that matters relating to conservation can be appropriately dealt with by way of suitably worded conditions. The Planning Officer concludes that the proposed mews dwelling is not acceptable due to the restricted nature of the access laneway. The Planning Officer recommends that a split decision issues whereby permission be granted for the proposed subdivision of the existing house, subject to 11 conditions and that permission for the mews dwelling be refused.

This Planning Report formed the basis of the Planning Authority's decision to issue a split decision.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to compliance with conditions.

Transportation Planning Division: The report notes that the width of the private laneway is substandard at approximately 2.7m-3.0m and does not accord with the Development Plan standards for potential mews laneways. The proposed mews development would alter the existing use of the laneway and would result in increased pedestrian, cyclist and vehicle use and conflict and would set an undesirable precedent.

The report notes the comments of the applicant, and the desire for the dwelling to remain in one household's ownership but consideration must be given to the principle of the mews dwelling irrespective of the occupiers, and the potential future mews developments that may come forward in the event of a grant of permission.

The report concludes recommending refusal for the mews for the following reason:

'The mews development does not comply with the Dublin City Development Plan 2016-2022, Section 16.10.16 'Mews Dwellings', in terms of width of the existing laneway. The proposed laneway is of a substandard width for a potential mews laneway. The development would alter the existing use of the laneway, a laneway with substandard and restricted access and result in increased pedestrian, cyclist and vehicle use and conflict. The development would set an undesirable precedent. The mews development would, therefore, be contrary to the proper planning and sustainable development of the area.

Conservation Officer: The report notes that previous concerns of the CO have been addressed by the current application, there remains a number of concerns in relation to the level of intervention proposed at the protected structure. It is noted that there was no preplanning consultation with the CO in advance of either planning submissions.

The report notes that there is no conservation expert employed on the design team. In order to protect the fabric, character and integrity of the PS and its setting, all works that involve PS, a conservation expert shall be employed.

The applicant is required to submit revised drawings of the lower ground floor showing the new partition between bedroom no. 2 and the wet room to ensure that the chimney breast remains legible.

The loss of the connection (staircase) between the basement level and the upper ground floor is not supported.

The introduction of a WC in the hall is not supported.

The loss of the door into the kitchen is not supported.

Insufficient information regarding the significance of the historic trees to the rear of the site has been submitted. Section 16.3.3 of the CDP notes that the 'successful retention of suitable trees is a benchmark of sustainable development.....' The information submitted does not satisfactorily address the condition or significance of the extant historic trees, nor provides sufficient justification for its removal.

No information has been provided in terms of the site works and boundary works required. All historic elements of the remaining boundary wall shall be retained, protected, consolidated and repaired as part of the proposal.

Full details of any proposed new elements are required.

Further information required.

3.2.3. Prescribed Bodies

TII: No observations to make.

3.2.4. Third Party Submissions

None.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref: 2378/97: Permission granted for the removal of existing conservatory and to build a new single storey garden level rear extension.

PA ref: 3840/04: Permission granted for the retention of existing shed to rear garden adjoining the back lane of 2 Mander's Terrace and permission for the demolition of the existing conservatory and the provision of a basement level rear single storey extension.

PA ref: 3295/20: Permission refused for the subdivision of the house into 2 no. separate dwelling units with extensions and the construction of a new two storey mews dwelling at the rear of the site. The reasons for refusal were as follows:

1. Having regard to the location of the proposed mews dwelling on a narrow laneway, which is substandard in width, and the non-provision of off-street car parking, it is considered that the proposed mews dwelling would be contrary to Section 16.10.16 of the Dublin City Development Plan, 2016-2022. Furthermore, the applicant has not demonstrated that the laneway can provide adequate access arrangements for construction vehicles, refuse vehicles, access for emergency vehicles and deliveries, and it is consequently considered that the proposed development would endanger public safety by reason of traffic hazard. The proposed development would therefore, by itself and by reason of the undesirable precedent it would set for other similar substandard development in the area, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the extent of the proposed interventions to the protected structure and its boundary treatments, and to the lack of justification provided for same, it is considered that the proposed development would result in harm to the special interest of the structure and would therefore be contrary to the provisions of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

Adjacent sites:

PA ref 6284/05: Permission granted for the reorganisation of street frontage to the terrace and the provision of parking and bike racks at Mander's Terrace.

PA ref 3043/10: Permission granted for the change of use from single dwelling to two dwellings, refurbishment works and extensions at No. 1 Manders Tc.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

The NPF includes a Chapter, No. 6 entitled ‘People, Homes and Communities’. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:

- National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.
- National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.

National Planning Objective 13 provides that “in urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

5.2.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

5.2.3. Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to the following safeguards:

- compliance with the policies and standards of public and private open space adopted by development plans;
- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
- good internal space standards of development;
- conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
- compliance with plot ratio and site coverage standards adopted in development plans.

5.3. Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011).

The subject site includes a protected structure, ref 4864 and is located within a residential conservation area. As such, the '*Architectural Heritage Protection, Guidelines for Planning Authorities*' are considered relevant. These guidelines are issued under Section 28 and Section 52 of the Planning and Development Act 2000. Under Section 52 (1), the Minister is obliged to issue guidelines to planning authorities concerning development objectives:

- a) for protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest, and

- b) for preserving the character of architectural conservation areas.

The guidelines provide guidance in respect of the criteria and other considerations to be taken into account in the assessment of proposals affecting protected structures. The guidelines seek to encourage the sympathetic maintenance, adaption and re-use of buildings of architectural heritage.

Chapter 13 deals with Curtilage and Attendant Grounds and Section 13.5 relates to Development within the Curtilage of a Protected Structure and Section 13.8 of the Guidelines relate to Other Development Affecting the Setting of a Protected Structure or an Architectural Conservation area and the following sections are relevant:

- Section 13.8.1
- Section 13.8.2
- Section 13.8.3

5.4. Development Plan

- 5.4.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site is zoned Z2 - Residential Conservation Area where it is the stated objective of the zoning 'To protect and/or improve the amenities of residential conservation areas.
- 5.4.2. Chapter 5 of the Plan deals with Quality Housing and the following policies are considered relevant:
- QH21: To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.
 - QH22: To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.
- 5.4.3. Chapter 16 of the CDP deals with Development Standards and section 16.10.2 deals with Residential Quality Standards for houses. This section deals with floor areas, aspect, natural light and ventilation, private open space and separation distances.

5.4.4. Section 16.10.16 specifically deals with Mews Dwellings and the following is relevant:

- (a) Dublin City Council will actively encourage schemes which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed. This unified approach framework is the preferred alternative to individual development proposals.
- (b) Development will generally be confined to two-storey buildings. In certain circumstances, three storey mews developments incorporating apartments will be acceptable,
 - where the proposed mews building is subordinate in height and scale to the main building,
 - where there is sufficient depth between the main building and the proposed mews building to ensure privacy,
 - where an acceptable level of open space is provided
 - where the laneway is suitable for the resulting traffic conditions
 - and where the apartment units are of sufficient size to provide for a high-quality residential environment.

This is in line with national policy to promote increased residential densities in proximity to the city centre.

- (c) Mews buildings may be permitted in the form of a terraces, but flat blocks are not generally considered suitable in mews laneways locations.
- (d) New buildings should complement the character of both the mews lane and the main building with regard to scale, massing, height, building depth, roof treatment and materials. The design of such proposals should represent an innovative architectural response to the site and should be informed by established buildings lines and plot width. Depending on the context of the location, mews buildings may be required to incorporate gable ended pitched roofs.

- (e) The amalgamation of subdivision of plots and mews lanes will generally not be encouraged. The provision of rear access to the main frontage premises shall be sought where possible.
- (f) All parking provision and mews lanes will be in off-street garages, forecourts or courtyards. One off-street car space should be provided for each mews building subject to conservation and access criteria.
- (g) New mews development should not inhibit vehicular access to car parking spaces at the rear for the benefit of the main frontage premises, where this space exists at present. The provision will not apply where the objective to eliminate existing unauthorised and excessive off-street car parking is being sought.
- (h) Potential mews laneways must have a minimum carriageway of 4.8 metres in width (5.5 metres where no verges or footpaths are provided). All mews lanes will be considered to be shared surfaces, and footpaths need not necessarily be provided.
- (i) Private open space shall be provided to the rear of the mews building and shall be landscaped so as to provide for quality residential environment. The depth of this open space for the full width of the site will generally be less than 7.5 metres unless it can be demonstrably impractical to achieve and shall not be obstructed by off-street parking. Where the 7.5 metre standard is provided, the 10 square metre of private open space for bedspace may be relaxed.
- (j) If the main house is in multiple occupancy, the amount of private open space remaining after the subdivision of the garden for mews development shall meet both the private open space requirements for multiple dwellings and for mews developments.
- (k) The distance between the opposing windows and mews dwellings and the main houses shall generally be a minimum of 22 metres. This requirement may be relaxed due to site constraints. In such cases innovative and high-quality design will be required to ensure privacy and to provide adequate setting, including amenity space, for both the main building and the mews dwelling.

5.5. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which are located approximately 3km to the east of the site. The North Bull Island SPA (Site Code: 004006) is located approximately 6.4km to the east.

The Rockabill to Dalkey Island SAC (Site Code: 003000) is located approximately 11km to the east and the Dalkey Islands SPA (Site Code: 004172) is located approximately 12km to the southeast.

5.6. EIA Screening

The subject appeal does not relate to a class of development which requires mandatory EIA. Having regard to nature and scale of the development, together with the brownfield nature of the site, 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

This is a first-party appeal against the decision of the Planning Authority to issue a split decision which includes conditions 3 and 4, and refuses planning permission for the proposed mews dwelling. The issues raised are summarised as follows:

- 6.1.1. Condition 3: This condition excludes the mews proposal from the development.
- It is submitted that the condition is unnecessary as
 - In the event of a refusal for the mews, the refusal prohibits the mews development.
 - In the event of a grant of permission for the mews, this condition is contradictory.

Condition 4: requires amendments and omissions as follows:

- a) limits new openings in historic walls to 3m
 - All openings are less than 3m, including the main opening in the rear wall from the kitchen/dining area into the rear extension at upper ground floor level.
 - It is framed by 1m of wall and a downstand beam of 600mm on the right-hand side but does not have the corresponding requested nib wall 'frame on the left-hand side. This is in order to maximise south facing light into the kitchen / dining area.
 - It is not clear why this condition is required and the reason for the condition is general.
 - It is submitted that this element of the condition would detract from the amenities of the new combined kitchen/dining/living area and would not result in an increased legibility of the original room layout.
- b) requires the partition between bedroom 2 and wet room at lower ground floor to be moved to the edge of the chimney breast.
 - The proposed layout provides for a practical layout in response to the applicants needs.
 - The condition is unwarranted by the conservation status of the buildings interior which was rebuilt 35 years ago.
 - The proposed works are reversible.
- c) requires the omission of the WC from the entrance hall.
 - The applicant requires that WC facilities are accessible at ground level for use during the day due to mobility issues.
 - The proposed location of the WC is the only option which complies with contemporary building regulations.
 - The staircase to be removed is modern and while the layout of the hallway is similar to the original layout, it is not an original feature.

- The alterations do not detract from the original design detail of the house and are reversible.
- The permitting of the removal of the stairs alters the character of the hallway and the inclusion of the WC will not detract further.
- d) requires that all historic boundary wall be retained.
 - This condition is deemed unnecessary as there is no proposed works to boundary walls.

6.1.2. The refusal of permission for the mews development:

It is considered that the decision to refuse, which focuses on the width of the laneway for increased vehicular use, is seriously flawed and unreasonable.

- The proposed development does not propose vehicular access to the mews lane.
 - The laneway is a private access lane serving the rear of the properties on Manders Terrace and the rear of three properties at 38-40 Charleston Road.
 - The brick arch access to the laneway comprises part of the original fabric of the house and terrace and is controlled by lock.
 - The laneway generates approximately 10 vehicular movements per week.
 - The L-shaped laneway is 3.7m at the entrance narrowing to 2.7m at the proposed entrance to the mews, widening to 4.7m to the rear of the houses on Manders Terrace.
 - Widening of the laneway would destroy the character of no. 1 Manders Terrace and the terrace and is not proposed. The mews development does not include a car parking space on site.
 - The focus on the width of the laneway fails to comply with the width standards for mews lane developments as set out in Section 16.10.16 of the CDP. As no vehicular traffic is proposed, the assessment by the PA in this regard is inappropriate.
 - Recent decisions for similar developments did not take issue with the width of mews lanes.

- There are three car parking spaces allocated to the applicants property to be used by the residents of the proposed 3 residential units, which complies with the CDP requirements.
- Adequacy of width and configuration of laneway to accommodate pedestrians and cycling / low level of vehicular movement.
 - The development of the mews will not add vehicular traffic movement on the lane, increasing only pedestrian and cycling traffic.
 - In the case of the right-hand bend on the laneway, this requires drivers and cyclists to proceed at pedestrian pace.
 - The erection of a convex mirror is suggested to support visibility of users on the lane.
 - The development will not give rise to conflict between pedestrians, cyclists and vehicular traffic as claimed by the PA.
 - Emergency Service Vehicles.
 - Provision for emergency fire servicing of the site can be addressed by provision of a dry riser on the lane adjoining the proposed mews.
 - This will avoid the necessity to bring fire tenders onto the lane.
 - The details of the dry riser could be dealt with by way of condition.
 - The lane is adequate to facilitate the use of a stretcher trolley, avoiding the need for an ambulance to drive in or reverse into the laneway.
- Refuse Collection.
 - The collection of refuse was detailed in the submitted application.
 - An on-site bin disposal facility is not proposed as it is not required.
 - The communal bin facility, located to the front of Manders Terrace and shared by all residents, is proposed to be used to serve the needs of the proposed mews.
 - Should it be required, there is ample space in the rear garden for a bin.
- Sustainable Development.

- The proposed mews development constitutes intensification of an underutilised residential site located in an inner-suburban village, well served by shopping, services and community facilities, immediately adjacent to a significant transport node at Ranelagh Luas Station.
- The proposed development facilitates an inter-generational housing model and response to the particular needs of the applicant.
- Desirable Precedent.
 - While the PA considers that the development would set an undesirable precedent on the lane, the applicant considers otherwise.
 - The development would not set a precedent for vehicular use of the lane, rather mews development without on-site car parking, restricting the movement on the lane to cycling and pedestrians.
 - There are a number of other mews developments on Manders Terrace, and all have at least 2 car parking spaces.
 - Given the small number of properties involved, should other residents propose a similar development, it is submitted that the development could be easily integrated into the existing residential environment without impacting negatively on the amenities and character of either the terrace or the adjoining lane.

6.1.3. The appeal concludes that the proposed development represents a sustainable residential model that meets the family's accommodation needs and which responds sensitively to its sensitive conservation context. It is requested that conditions 3 and 4 be omitted from the decision to grant and that permission be granted for the proposed mews as the refusal of same is contrary to the main objectives of all national transport and planning guidelines in relation to sustainable development.

6.1.4. The appeal document includes an Engineering Report, prepared by Eoghan Madden, Chartered Engineer.

6.2. Planning Authority Response

None.

6.3. Observations

None.

7.0 Assessment

The Board will note that there are two elements to the subject appeal:

1. The inclusion of condition 3, which seeks to the omission of the mews development and condition 4, which requires amendments to a number of the proposed internal works.
2. The refusal of permission for the mews development.

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Condition 3
3. Condition 4
4. Mews Development
5. Other Issues
6. Appropriate Assessment

7.1. Principle of the development

- 7.1.1. The proposed development seeks to convert an existing two storey over basement house into two individual units, with the basement floor comprising a new two bedroomed residential unit and the upper ground floor and first floor comprising a three-bed residential unit. The development proposes a number of internal works to the protected structure in order to facilitate the two units.

7.1.2. The proposed development site is located within the Ranelagh village area and is zoned Z2 - Residential Conservation Area where it is the stated objective of the zoning 'To protect and/or improve the amenities of residential conservation areas. The principle of the proposed development can, therefore, be reasonably considered acceptable and in accordance with the zoning objective afforded to the site. As such, I proposed to restrict my consideration of this appeal to the matters raised in the first-party appeal, namely, the inclusion of conditions 3 and 4, and the refusal of permission for the proposed mews dwelling.

7.2. Condition 3

7.2.1. Condition 3 of the Dublin City Council decision to grant permission reads as follows:

This permission excludes the following elements of the proposed development:

6) Construction of 1 no. new two-storey two bedroom detached mews dwelling unit at rear of site, ancillary to existing dwelling, including first floor terrace to south, rooflight to east, and access to rear garden of main house, with own door access via lane shared by residents of Mander's Terrace and 38-40 Charleston Road;

For the reasons stated in the refusal schedule.

Reason: For the avoidance of doubt as to the elements granted permission.

7.2.2. The appellant submits that the inclusion of this condition is unnecessary as in the event of a refusal for the mews, the refusal itself will prohibit the mews development, or in the event that the Board grant permission for the mews, this condition is contradictory.

7.2.3. I would agree with the appellant in this instance and consider that the inclusion of this condition is unnecessary. I therefore recommend that it be omitted.

7.3. Condition 4

7.3.1. Condition 4 of Dublin City Councils decision to grant permission states as follows:

The development hereby granted planning permission shall be revised as follows;

- a) All new openings in historic walls shall be limited to 3m as a maximum and retain 300mm min either side of the opening.
- b) The new partition between bedroom No. 2 at lower ground floor level and the wet room shall be moved to the edge of the chimney-breast in order to ensure that the chimney breast remains legible.
- c) The proposed WC in the entrance hall shall be omitted from the scheme.
- d) All existing historic boundary walls shall be retained.

The development shall not commence until revised plans, drawings and particulars showing the above amendment have been submitted to, and agreed in writing by the Planning Authority.

Reason: To ensure that the integrity and special characteristics of this protected structure are maintained.

7.3.2. The Board will note that the appellant has indicated that on purchasing the house approximately 35 years ago, an extensive renovation programme was undertaken which involved essentially the gutting of the interior of the building and only the external walls of the house were retained, such was the poor structural condition. As such, it is submitted that none of the buildings original interior structure or features remain. It is also submitted that the stone-faced rear elevation was also largely rebuilt and repaired, in front of a modern reinforced concrete frame.

7.3.3. In terms of the requirements of condition 4, I consider the following to be relevant in this regard:

- a) I note that the development does not appear to propose any new opening in historic walls which would exceed the 3m stated in the condition. Any existing openings in the rear wall of the building have been permitted under a previous planning application and permission and I note that the only proposed works to the rear wall of the house involves the widening of a previously permitted French door at upper ground floor level to approximately 2.7m. This widening is proposed to provide maximum light to the newly proposed kitchen / dining

area at this level and to provide access to the proposed new sunroom at this level.

In looking for the appellant to comply with the condition as written, including the requirement to retain 300mm on either side of the opening, it is submitted that this element of the condition would detract from the amenities of the new combined kitchen/dining/living area and would not result in an increased legibility of the original room layout.

While I acknowledge the comments of the Conservation Officer, I would consider that this condition is unwarranted and does not particularly relate to the subject proposed development in terms of the rear wall of the building.

The proposed development also includes proposals to provide two doors at lower ground floor level to provide access to the newly formed unit at this level. I am satisfied that this element of the proposed development will not amount to an opening of the scale indicated in Condition 4 and can be considered acceptable in the context of the overall development of the site. Therefore, I recommend that Condition 4 a) be omitted.

- b) This part of the condition requires the partition between bedroom 2 and wet room at lower ground floor to be moved to the edge of the chimney breast. I note that the appellant has indicated that given the interior works that were undertaken 35 years ago, the conservation status of the interior of the building is not relevant. It is not clear if the existing chimney breast remains legible within the space and I also note that the proposed works are considered reversible in accordance with the requirements of the Architectural Heritage Protection Guidelines, 2011.

In this regard I recommend that Condition 4 b) be omitted.

- c) Part c) of condition 4 requires the omission of the WC from the entrance hall. In this regard, the Board will note the submission of the applicant with regards to the requirements for accessible WC facilities at ground level for use during the day, due to mobility issues. I do not consider this to be unreasonable. I also note that the proposed sub-division of the house is considered acceptable and in implementing this decision, the stairs to the basement level from the upper ground floor level will be removed.

While I acknowledge that the removal of the stairs will alter the character of the hallway and original floor plan, if the principle of the sub-division of the house is deemed appropriate then this of itself, will alter the character and floor plan of the upper ground floor level of the house. I have no objections to the proposed inclusion of a WC at upper ground floor level and I am satisfied that the proposed location is acceptable. I also acknowledge that the works proposed to provide the WC are reversible in accordance with the requirements of the Architectural Heritage Protection Guidelines, 2011.

In this regard I recommend that Condition 4 c) be omitted.

- d) Part d) of Condition 4 requires that all historic boundary wall be retained. The Board will note that the appellant submits that the proposed development does not propose works to the boundary walls and therefore, this condition is deemed unnecessary.

I would note however, that the submitted plans identify the areas for demolition in red which include a length of approximately 8.5m of the western boundary wall which faces onto the laneway to the west of the site. As such, I would consider it reasonable to include the above condition in principle, and in the absence of sufficient information.

While I could not gain access to the rear of the property or the laneway on the date of my site inspection, I note the photographs submitted in support of the proposed development which would suggest that the boundary wall along the western side of the site, along the laneway, has already been removed. In this case, the historic fabric has already been lost. However, I do consider it appropriate to include this element of Condition 4 in order to protect any fabric of historic walls that might remain in the boundary walls closer to the house, and which form the boundary between No. 1 and No. 2 Manders Terrace. This area of wall is not bounding the laneway. I would further supplement the condition to require that a full assessment of the historic boundary walls, including photographic records, be submitted to the Planning Authority prior to the commencement of any development on the site, in order to establish what actually remains at this Protected Structure.

As such, I recommend that Condition 4 be amended such that part d) is incorporated into a more detailed conservation condition, as recommended Condition 3 in Section 10 of this report.

7.4. Mews Development

- 7.4.1. The Planning Authority decided to refuse planning permission for the construction of 1 no. new two-storey two bedroom detached mews dwelling unit at rear of site, ancillary to existing dwelling, including first floor terrace to south, rooflight to east, and access to rear garden of main house, with own door access via lane shared by residents of Mander's Terrace and 38-40 Charleston Road, for the following stated reason:

The mews development does not comply with the Dublin City Development Plan 2016-2022, Section 16.10.16 'Mews Dwellings', in terms of the width of the existing laneway. The proposed laneway is of a substandard width for a potential mews laneway. The development would alter the existing laneway, a laneway with substandard and restricted access and result in increased pedestrian, cyclist and vehicle use and conflict. The development would set an undesirable precedent. The mews development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 7.4.2. The proposed sub-division of the main house and the construction of the mews dwelling is proposed in order to accommodate the adult children of the applicants. The details submitted suggest that the entirety of the site will continue to be owned and occupied as a single entity by the family, and I note that there is no proposal to separate water services or provide for defined areas of private amenity space within the rear garden for each unit, albeit each unit is afforded an area of private amenity in the form of terraces or a balcony. I also note that bin storage is not required on site as each unit will use the communal bins shared by Manders Terrace residents, located to the front of the main building.

- 7.4.3. Section 7 of the Planning Report submitted with the application states that 'due to the fact that all three units are ancillary and in family occupancy, there is no requirement for separate (future) metering'. Should the Board be minded to grant planning permission in this instance, I recommend that a condition restricting the

sale, letting or otherwise transferring of any of the three units independently of each other, without the benefit of a further grant of planning permission for such separation and clear details as to the separation of services.

- 7.4.4. In the context of the City Development Plan, the proposed development, while acceptable in terms of the zoning objective afforded to the site, would fail in the specific requirements of the Plan for mews developments. Section 16.10.16 of the Plan deals with Mews Dwellings and in particular, I refer the Board to the specific requirements in terms of the width of potential mews laneways. The Plan requires that such laneways must have a minimum carriageway of 4.8 metres in width (5.5 metres where no verges or footpaths are provided).
- 7.4.5. The Board will note, however, that the subject laneway does not comprise a public road. The laneway onto which the proposed mews dwelling will open onto is a private laneway which provides access to the rear of all of the properties within Manders Terrace, as well as three properties which front onto Charleston Road. Access to the laneway is restricted by way of a locked gate adjacent to No. 1 Manders Terrace and while access is also provided to the rear of the houses on Charleston Road, the access to these houses is also controlled by a gate. In this regard, I could not gain access to the laneway on the date of my site inspection.
- 7.4.6. I note that the applicant has argued that the standards of the City Development Plan as they relate to mews laneways should not apply as there is no proposal to provide on site car parking at the proposed mews dwelling. Car parking is proposed to be provided within the existing spaces allocated to the main house within the communal areas associated with Manders Terrace. As such, it is submitted that there will be no additional vehicular traffic on the lane, and the development will restrict movement on the mews to pedestrians and cyclists.
- 7.4.7. In considering the proposed development, I would note that the principle of the proposed construction of a mews dwelling on the existing laneway is reasonably justified in accordance with the NPF and Government Policy to ramp up delivery of housing from its current undersupply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016. National policy supports denser residential development on public transport corridors within the built-up area of Dublin City and its suburbs. In this regard, I note the proximity of the subject site to

the Ranelagh Luas Stop as well as the proximity to shops and services within Ranelagh Village.

- 7.4.8. Should the Board be minded to grant permission in this instance, it may be considered that there is an issue relating to material contravention of the CDP with regard to the planning authority's reason for refusal and the width of the laneway, which does not comply with the requirements of Section 16.10.16 of the City Development Plan. I will deal with this matter further below in Section 7.5.1.
- 7.4.9. While I acknowledge the submission of the PA, I would consider that given the small-scale nature of the development, together with the existing use of the laneway by a number of property owners, the proposed development would not generate so significant a level of traffic as to give rise to a public safety issue. As such and having regard to the national policy which seeks to achieve well-designed high quality and safe outcomes in order to achieve targeted growth and that protect the environment, and to ramp up the delivery of housing as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness, July 2016, I am satisfied that the proposed mews dwelling is justified.

7.5. Other Issues

7.5.1. Material Contravention

Section 7.4 of this report raised the issue of potential material contravention of the Dublin City Development Plan 2016-2022. Section 16.10.16 of the Development Plan deals with mews dwellings and details specific requirements for new mews lane widths. The Plan requires that such laneways must have a minimum carriageway of 4.8 metres in width (5.5 metres where no verges or footpaths are provided). The development as proposed will be accessed via an existing laneway which has a width of between 2.7m and 3.7m, being wider at the archway entrance to the front of the houses on Manders Terrace, narrowing towards the southern end of the laneway and the right-hand bend in the vicinity of the proposed mews building. Therefore, it may be considered that the development as proposed, materially contravenes the provisions of Section 16.10.16 of the Plan, which sets out standards for mews dwellings and Appendix 5.1 in relation to road and footpath standards.

The Board will note that the planning authority raised this concern of non-compliance in its decision to refuse planning permission. The PAs issue with the proposed development relates to the substandard nature and restricted access of the existing laneway in terms of width for a potential mews laneway and considers that the proposed use would result in increased pedestrian, cycle and vehicle use and conflict. Concern is also raised that the development alters the existing use of the laneway and set an undesirable precedent. The proposed development would, therefore, be contrary to the provisions of the current development plan, and to the proper planning and sustainable development of the area.

If it is determined that the proposed development materially contravenes the provisions of the City Development Plan, I would refer the Board to Section 37(2)(b) of the Planning and Development Act 2000, as amended. This section of the Act provides that the Board may only grant permission where it is considered that:

- i. The proposed development is of strategic or national importance,
- ii. There are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- iii. Permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- iv. Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

In the context of the proposed development, I am satisfied that the Board can consider that the exemptions set out in Section 37(2)(b)(iii) are applicable in this instance. I am satisfied that the proposed development is acceptable in this regard.

7.5.1. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.5.2. **Appropriate Assessment**

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which are located approximately 3km to the east of the site. The North Bull Island SPA (Site Code: 004006) is located approximately 6.4km to the east. The Rockabill to Dalkey Island SAC (Site Code: 003000) is located approximately 11km to the east and the Dalkey Islands SPA (Site Code: 004172) is located approximately 12km to the southeast.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 **Recommendation**

Having regard to the nature of this first-party appeal, I consider it reasonable to conclude as follows:

1. I recommend that Condition 3 as stated in Dublin City Councils decision to grant permission be REMOVED.
2. I recommend that Condition 4 as stated in Dublin City Councils decision to grant permission be AMENDED as per recommended condition 3 attached.
3. I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 **Reasons and Considerations**

Having regard to the Objectives of the National Planning Framework, and the zoning provisions of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development,

including the proposed mews development, would be acceptable in terms of pedestrian and cyclist safety and would not seriously injure the visual and residential amenities of adjoining properties and the amenity of future occupants.

While the Board acknowledges that the proposed mews development is contrary to Section 16.10.16(i) of the Dublin City Development Plan 2016-2022 which states that potential mews laneways must have a minimum carriageway of 4.8 metres in width, the development is considered to be justified in accordance with:

- (a) Government policy to ramp up delivery of housing from its current under-supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and
- (b) Objective 13 of the National Planning Framework, which supports denser residential development on public transport corridors within the built-up area of Dublin city and its suburbs, as is proposed in this case. 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, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The existing dwelling to be subdivided and the proposed mews dwelling shall be jointly occupied as a single-family residential unit and no element of the development hereby permitted shall be sold, let or otherwise transferred or conveyed to a third-party, save as part of the entire dwelling site, unless otherwise authorised by a prior grant of planning permission.

Reason: To restrict the use of the extension in the interest of residential amenity and orderly development.

3. (a) A conservation expert shall be employed to manage, monitor and implement the works on the site 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.
- (b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
- (c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.
- (d) All existing historic boundary walls shall be retained. Prior to the commencement of any development on site, a full assessment of the historic boundary walls of the site, including a photographic record, prepared by a suitably qualified conservation expert, shall be submitted to and agreed in writing by the Planning Authority.

Reason: To ensure that the integrity and special characteristics of this protected structure are maintained and protected and that the structures are protected from unnecessary damage or loss of fabric.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

7. 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:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works, and in particular the laneway which serves the rear of all properties on Manders Terrace;
- (i) Provision of parking for existing properties during the construction period;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

9. 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.

A. Considine
Planning Inspector
20th July 2021