



An
Bord
Pleanála

Inspector's Report ABP-310444-21.

Development

Protected Structure: Permission for alterations to the design of the permitted two-bedroom house fronting Cambridge Road (Reg. no. 4099/18) at the rear and within the curtilage of 44 Belgrave Square, PS.

Location

Rear of 44 Belgrave Square, Rathmines, Dublin 6.

Planning Authority

Dublin City Council South.

Planning Authority Reg. Ref.

2405/21.

Applicant(s)

Grattan Smith.

Type of Application

Permission.

Planning Authority Decision

Refuse.

Type of Appeal

First Party

Appellant(s)

Grattan Smith.

Observer(s)

Aidan Williamson.

Date of Site Inspection

15/09/2021.

Inspector

A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located to the rear of No. 44 Belgrave Square, Rathmines, Dublin 6, and is located onto Cambridge Road, which forms the western boundary of the overall No. 44 Belgrave Square site. The main house comprises a two storey over basement house, with a three storey return to the rear, which lies within the terrace of houses, all of which are Protected Structures, included in the Dublin City Council RPS and front onto Belgrave Square to the east. The houses in the terrace comprise a mix of both red brick as well as two pairs of yellow brick houses, one of which the subject site is taken from. The subject site forms the rear section of the current garden for the main house at 44 Belgrave Square, PS ref: 598.
- 1.2. The area surrounding the subject site generally comprises the rear gardens and garages associated with the houses fronting onto Belgrave Square, together with the boundary walls and some pedestrian and vehicular access points. The access to the site, which has a stated area of 123.5m², crosses a small private lane which provides access to the rear of a number of properties to the southern side of the Belgrave Square houses. I note that the property immediately to the north of the subject site, no. 45 Belgrave Square West, has incorporated the area of the lane into the rear garden of the property, breaking access to the full lane from no. 32 Belgrave Square West at the south, to No. 46 Belgrave Square West at the north. There are gaps in the wall which runs along the public footpath to the eastern side of Cambridge Road which form the boundary of the lane. I would note that no mews dwellings have been developed along this road, although permission has been granted by Dublin City Council and ABP for 2, including one on the subject site as well as one at the rear of No. 46 Belgrave Square.
- 1.3. The Board will note that the southern area of Cambridge Road, which is accessed from Cambridge Villa adjacent to the Holy Trinity Church, is a wider street with houses constructed on both sides of the road. In the vicinity of the subject site, Cambridge Road narrows and only No. 15 Cambridge Road is accessed from this area of the road. Other houses are primarily accessed from Stable Lane, which runs west from Cambridge Road to the rear of houses fronting onto Castlewood Avenue to the north.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for PROTECTED STRUCTURE: Permission for alterations to the design of the permitted two-bedroom house fronting Cambridge Road (Reg. no. 4099/18) at the rear of and within the curtilage of 44 Belgrave Square, a Protected Structure, Rathmines, Dublin 6. The proposed redesigned house is to accommodate three bedrooms and to be three storey, including a developed attic storey under a partly pitched roof. The proposed development incorporates solar panels, velux roof lights, balconies, a side passageway and a car port accessed via a slight widening of the existing vehicular gates on Cambridge Road, as well as associated site works, all at the rear of 44 Belgrave Square, Rathmines, Dublin 6.
- 2.2. The application included a number of supporting documents including as follows;
- Plans, particulars and completed planning application form
 - Architectural Assessment Report incorporating Conservation Method Statement
 - Letter of support from neighbour
 - Section V Exemption Certificate.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed amended design for the following stated reason:

1. Having regard to the prominent position of the site, to the height, roof form and external appearance of the proposed building, and to the reduced depth of the rear garden to be retained by No. 43 Belgrave Square, it is considered that the proposed development would appear overly dominant and incongruous within the existing context, harmful to the setting of nearby protected structures and to the character of the surrounding conservation area and overbearing to the adjoining occupier to the north.

The proposed development would therefore, by itself and by the precedent it would set for similar development, seriously injure the amenities of the local area, contrary to the policies of the City Development Plan 2016-2022 and 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, third party submissions and the City Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The Planning Report notes that the principle of the development is acceptable but considers that the height of the proposed house, together with the reduction in the garden to be retained by the protected structure, would result in the development failing to achieve a subordinate relationship with the protected structure. The changes from the permitted scheme, particularly with regard to the additional height and unusual roof form, would detract from the character and setting of nearby protected structures and the conservation area.

The report further considers that the development, while meeting the private amenity space requirements, would fall short of the 7.5m depth required in the CDP. In addition, it is considered that the development would appear overbearing to the neighbouring property to the north. The Planning Officer recommends that permission be refused for the reason stated above. This Planning Report formed the basis of the Planning Authority's decision to grant permission for the proposed development.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to compliance with conditions.

Transportation Planning Division: The report advises no objection to the proposed development subject to compliance with conditions.

Conservation Officer: The DCC Conservation Officer submitted a report on the proposed development, noting that to protect the setting,

amenity legibility of the protected structure, the applicant shall revise the proposal to show the new dividing wall relocated at a distance of 11.1m from the Protected Structure – in line with the previously granted planning permission – DCC Reg Ref. 4099/18 refers. The report recommends the inclusion of conditions relating to the works to the boundary walls.

Full drawings and photographic record of all existing boundary walls to be provided and a method statement for the raking out and re-pointing of the stone-work to be provided.

The report concludes that permission be granted subject to compliance with conditions.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Submissions

There are 4 submissions noted in relation to the proposed development on the PAs file. The issues raised are summarised as follows:

- There is no precedent for a 3-storey structure at the rear of a 3 storey house on Belgrave Square.
- The development will diminish light and will overlook adjacent gardens, affecting privacy and quiet enjoyment of homes.
- The proposed 3 storey building, at 8.8m in height is too high. The current highest building is 4m, with DCC permitting a house at 6.4m high to the rear of No. 46.
- The development will result in overshadowing of adjacent properties – no shadow diagrams have been provided.
- The development amounts to overdevelopment of a rear garden site associated with a protected structure.
- The Billy type roof is out of character with the area and the addition of balconies will result in overlooking.

- The loss of the lanes to the area belies its history which in most submissions seems to start with the huge development of the area in the late 1800s. It is difficult to see any benefit in retaining the conservation status of an area or the benefit of being a custodian when the major effects on the area are caused by a cascade of planning and precedent.

4.0 Planning History

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

PA ref 4099/18: Permission was granted by DCC, for the demolition of the rear garden wall and vehicular access gate, the construction of a 2 storey 2-bedroom single detached mews dwelling, within the curtilage of a Protected Structure, incorporating a car space within the site accessed from Cambridge Road with a terrace to first floor level to front. The ground floor to be partially sunken below ground level with access to private open space to the rear and associated site works at 44 Belgrave Square West (fronting onto Cambridge Road), Rathmines, Dublin 6.

Neighbouring sites:

ABP ref ABP-302974-18 (PA ref 3147/18): Permission granted on appeal for the demolition of existing single storey garage to the rear of the property facing onto Cambridge Road, Rathmines. The proposed development will face and be accessed from Cambridge Road and will be for a 99m², 2 storey, 2 bedroom mews house, with a single car parking space to the front, a first floor terrace to the front and small garden to the rear with a pedestrian gate linking the new garden to the existing garden of No. 46 Belgrave Square West. The development will also consist of a new 2.2m high wall to be built behind existing historic stone wall on Cambridge Road, a new 2.1m high vehicular timber gate, a new separate connection to public sewer on Cambridge Road and all associated site works. at the rear of 45 Belgrave Square West (fronting onto Cambridge Road), Rathmines, Dublin 6. The permission provided for a two-storey mews.

5.0 Policy and Context

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

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. The guidelines promote the principle of higher densities in urban areas, 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.
- 5.2.2. 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 a number of safeguards. Section 5.9 deals with Inner suburban / infill sites and notes that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the revitalising areas by utilising the capacity of existing social and physical infrastructure. Such development can be provided either by infill or by sub-division of dwellings.

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

- 5.3.1. The proposed development involves works within the curtilage of a protected structure and as such, ‘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.

5.3.2. 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.

5.3.3. 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.

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 11 of the CDP deals with Built Heritage and Culture and Section 11.1.5.4 deals with Architectural Conservation Areas and Conservation Areas where it is stated that DCC will seek 'to ensure that development proposals within all Architectural Conservation Areas and Conservation Areas complement the character of the area, including the setting of protected structures, and comply with development standards.'

5.4.4. The following policies are relevant in this regard:

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.

CHC2: To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage.

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting
2. Re-instatement of missing architectural detail or other important features
3. Improvement of open spaces and the wider public realm, and re-instatement of historic routes and characteristic plot patterns
4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area
5. The repair and retention of shop- and pub-fronts of architectural interest.

Development will not:

1. Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area
2. Involve the loss of traditional, historic or important building forms, features, and detailing including roof-scapes, shop-fronts, doors, windows and other decorative detail
3. Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors
4. Harm the setting of a Conservation Area
5. Constitute a visually obtrusive or dominant form.

5.4.5. 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. Section 16.10.11 deals with Infill development while Section 16.10.16 specifically deals with Mews Dwellings and provides that the council will:

- a) encourage a unified approach to the development of residential mews lanes.
- b) recognise the importance of stone/brick coach houses on mews laneways.
- c) confine development to two storeys.
- d) flat blocks are not considered suitable
- e) new buildings should complement the character of the mews lane and the main building with regard to scale, massing, roof treatment and materials.
- f) amalgamation or subdivision of plots on mews lanes will not be encouraged.
- g) parking will be provided in off-street garages, forecourts or courtyards.
- h) new mews developments should not inhibit vehicular access to car parking space at rear for the benefit of the main frontage premises.

- l) mews laneways must have a minimum carriageway of 4.8 metres in width.
- j) private open space is required to be provided to the rear of the mews building and the depth should not be less than 7.5m.
- k) private open space for main house shall meet the requirements of the plan.
- l) the distance between opposing windows shall be generally a minimum of 22m.

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 (&pNHA) (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approximately 3.6km to the east of the site. The North Dublin Bay SAC (Site Code: 000206) and North Bull Island SPA (Site Code: 004006) is located approximately 6.8km to the north-east of the site.

5.6. EIA Screening

5.6.1. The proposed development is not of a class which requires mandatory EIA. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere.

(In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.6.1. The proposed development comprises a proposed mews dwelling on Cambridge Road, to the rear of the protected structure at 44 Belgrave Square West. The site is located in an urban area that does not come within the above definition of a “business district” and is more akin to ‘other parts of a built-up area’. In any case, the

site is well below the threshold of 2 ha for a 'business district' location, and substantially below the 10ha threshold for 'other parts of a built-up area' which would trigger the need for a statutory EIAR. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.

5.6.2. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.6.3. Having regard to:

- (a) the nature and scale of the development,
- (b) the built nature of the site,
- (c) the zoning afforded to the site and the availability of public services and infrastructure,
- (d) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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 refuse planning permission for the proposed development. The issues raised are summarised as follows:

- Permission has been granted for the construction of a detached mews dwelling on the site under PA reg. 4099/18.
- The section of Cambridge Road onto which the site fronts is an unkempt neglected area, regularly subject to illegal dumping.
- There are a number of large over-mature trees blocking the footpath and their removal and replacement will improve the streetscape. The area is poorly lit and there is little or no overlooking from dwellings.
- The laneway is in the ownership of the Belgrave Square houses and has not been taken in charge by DCC.
- The proposal represents an opportunity to turn this section of Cambridge Road into an attractive and safe environment.
- It is suggested that the site does not have a mews type relationship with the original front house and is not a standard mews-type laneway. Any new dwelling should address Cambridge Road on an equal footing with the other dwellings to the south, all of which are tall three storey houses.
- A two-storey mews type building would be out of character for the area.
- The redesign of the house permitted is based in the internal planning of the house, the relationship of the house to the street and its relationship with the existing historic boundary walls.
- The redesign provides better access to the private open space.
- Narrowing the footprint of the house combined with the desire to accommodate a third bedroom necessitated the exploration of a three-storey arrangement.

- Notwithstanding the planning challenge the three-storey solution presents, it is viewed that the increased height is a positive thing both in the context of presenting a frontage of appropriate scale to Cambridge Road and in proposing roof configurations more appropriate to the context than the flat roof previously permitted. It is submitted that it serves as a link between the three-storey dwellings on the surrounding roads.
- It is noted that there is a degree of acknowledgement from the conservation section (of DCC) that the approach taken had merit.
- The proposed adjusted location of the rear boundary wall between the back gardens of the existing and the proposed house, deemed not to be acceptable, has been readjusted to the position and depth and previously permitted.
- It is acknowledged that the permitted development, adopting the language of the mews development has merit and it is understood that planners do not want to risk granting permission for a proposal that clearly departs from the norms. However, it is submitted that this is not a typical mews lane and in the long term, it is likely that the lane will be absorbed as front gardens serving the mews as has happened on the adjoining site to the north.

It is requested that the Board grant permission for the amended proposal.

Enclosures with the appeal include a note from the applicant advising that the applicant is seeking to improve the area and provide a home for his young family.

6.2. Planning Authority Response

None.

6.3. Observations

There is one observation noted on the file from the neighbouring property owner. The observation resubmits the comments made during the PAs assessment of the proposed development and notes that the observer does not wish to object to development in principle and respects his neighbour. However, it is felt that the

development as proposed is not appropriate and will have an adverse impact on his home in terms of:

- Overshadowing due to the height and verticality of the development which is inappropriate for a restricted mews lane.
- The development will be visually dominant.
- The scale of the development is not sympathetic to its conservation setting and would not be subsidiary to the main Protected Structure and will dominate the garden.
- The development will result in overlooking, diminution of privacy and loss of amenity.

7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of current uses on the site, together with the planning history of the site and permitted and existing uses 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 proposed development
2. Visual Impacts & Impact on Architectural Heritage
3. Residential Amenity issues
4. Other Issues

7.1. **Principle of the proposed development:**

- 7.1.1. Given that the subject site is located on lands zoned for residential purposes and having regard to the planning history associated with the site, the principle of development at this location is considered acceptable and in compliance with the general thrust of national guidelines and strategies. The Sustainable Residential Development in Urban Areas (DoEHLG, 2009) guidelines updated the Residential

Density Guidelines for Planning Authorities (1999) and continue to support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines and in this regard, I have no objection to the proposed development in principle.

- 7.1.2. In terms of compliance with the Dublin City Development Plan, the Board will note the location of the subject site within the city centre and in an area zoned Z2 - Residential Neighbourhoods (Conservation Areas) where the following objective is applicable; 'To protect and/or improve the amenities of residential conservation areas.' Residential is a permissible use within this zoning category. In this regard, I am satisfied that the proposed development is acceptable in principle. In addition, site specific issues are also required to be considered and I will address these issues further in this report.
- 7.1.3. 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. Section 16.10.11 deals with Infill development while Section 16.10.16 specifically deals with Mews Dwellings. The Plan requires that infill and mews development should meet the stated criteria. In this context, the Board will note that the applicant / appellant has requested that the context of the site not be considered as a typical mews lane, suggesting 'that the site does not have a mews type relationship with the original front house and is not a standard mews-type laneway'. It is submitted that any new dwelling should address Cambridge Road on an equal footing with the other dwellings to the south, all of which are tall three storey houses.
- 7.1.4. I note the extensive history of the area presented in support of the proposed development and note the suggestion of the applicant / appellant that the permitted two storey mews dwelling would be out of character with the area. I also note that the matter of the existing lane, and whether it has been taken in charge by Dublin City Council is unresolved in terms of the information on the file, including comments from the Transportation Planning Division of DCC. While I accept that the principle of the proposed development is acceptable, the circumstances of the subject site have to be considered in the overall proposed development design and layout, notably

given the location within a Z2 - Residential Neighbourhoods (Conservation Areas) and proximate to a number of protected structures.

7.2. Visual Impacts & Impact on Architectural Heritage

- 7.2.1. It is the stated policy of Dublin City Councils Development Plan, Policy CHC1 refers, 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. In addition, Policy CHC2 seeks to ensure that the special interest of protected structures is protected. The Board will note that all houses in the terrace on Belgrave Square West are protected structures. In addition, the properties to the north of the subject site, comprising the houses on Castlewood Avenue and all the existing properties on Cambridge Road, including the Mews directly across the street from the subject site, are also included in the RPS. The service lane for the properties on Belgrave Square West remains accessible for the main houses from Cambridge Road. Therefore, it is necessary to consider the impact of the proposed development on the main building on the wider landholding, as well as the other adjacent protected structures.
- 7.2.2. The subject site comprises part of the rear garden of No. 44 Belgrave Square, RPS ref 598. In accordance with the Planning & Development Act, 2000 as amended, a protected structure includes the interior, land lying within the curtilage and any other structures lying within that curtilage and their interiors and all fixtures and features which form part of the interior or exterior of any structure. The proposed development will result in the loss of part of the original gardens to the west of the Protected Structure, as well as the removal of the remaining part of the original rear boundary wall onto the lane adjacent to Cambridge Road. The Board will note that the proposal does not intend works to the main house, which is currently occupied by the applicants' parents other than to reduce the existing private amenity space associated with the house.
- 7.2.3. Policy CHC2 of the Dublin City Development Plan sets out a number of criteria for works to protected structures, including part (d) which states Development will conserve and enhance Protected Structures and their curtilage and will:

- (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

7.2.4. The proposed development seeks to carry out works within the original curtilage of the protected structure and construct a new house. While I acknowledge the request of the appellant that the new dwelling on Cambridge Road should be considered on an equal footing with the other dwellings to the south, all of which are tall, three storey houses save for the single storey protected structure directly across the road from the subject site, I could not support this request. Given the location of the site within a residential conservation area, zoned Z2 (and not Z1 as indicated in the applicants Architectural Assessment Report submitted with the initial planning application) I consider that it is incumbent on the Board to uphold the objective of the zoning being, 'To protect and/or improve the amenities of residential conservation areas.' I also note the planning history associate with the wider area, whereby permission has been granted for a mews dwelling to the rear of No. 46 Belgrave Square West (ABP ref. 302974-18 (PA ref: 3147/18) refers) and an extension to No. 47 Belgrave Square West which included permission for a single storey games room and office at the rear boundary of the site (PA ref: 3368/18 refers). In this regard, any proposed development should reflect the requirements of the Dublin City Development Plan as they relate to mews dwelling.

7.2.5. With regard to the proposed design of the proposed house, the Board will note that the applicant is seeking to construct a narrow three storey building on the site. The building as proposed, will supersede the previously permitted two storey, flat roofed mews house, and will rise to an overall height of 8.815m, with a total floor area of 106.3m². The building will have a flat roof section to its centre of the roof with the 2nd floor rooms to be located within the attic space. The dwelling will provide for a kitchen / dining area at ground floor, together with a WC and covered car parking space, with the first floor providing a living room, double bedroom and shower room. The second floor will comprise 2 further bedrooms and a family bathroom. The Board will note that the appeal documents have relocated the building forward on the site which will result in the proposed balcony at first floor level oversailing the lane. This

move was to restore the previously permitted rear boundary line with the existing house on the overall landholding.

7.2.6. The roof of the building will be finished in zinc sheeting and will include a high level 'velux' roof lights to the second-floor bathroom and stairwell. The first-floor shower room will project over the now proposed side passageway adjacent to the northern boundary wall. The building will be finished with clay bricks to external walls to match the predominant red brick of the adjacent properties and windows and doors will comprise 'Rational' to a charcoal grey finish. The first-floor projection on the northern elevation will also be finished in the zinc sheeting to match the roof finish. The proposed first floor balcony to the living room will be constructed in a light galvanised steel.

7.2.7. The Board will note the concerns raised by third parties in relation to the height and scale of the proposed house. I have considered this matter very carefully and having undertaken a site inspection, together with an assessment of current and permitted developments in the vicinity of the site, I am not satisfied that the proposed three storey building is acceptable at this location. The subject site comprises part of an existing protected structure curtilage and I would not accept that the development as proposed could reasonably be considered subservient to the main house, if permitted and constructed. I further do not accept the first-party argument that the proposed house should be afforded an equal footing with the existing dwellings in the vicinity, most of which comprise protected structures. The site is located on a prominent location within the curtilage of a protected structure, and if permitted as currently proposed, the house would become a dominant feature and would be overbearing and out of character with the established nature of Cambridge Road, contrary to the zoning objective afforded to the site and policies relating to the preservation of the built heritage of the area including protected structures.

7.3. Residential Amenity issues

7.3.1. In terms of residential amenity, I am satisfied that the proposed house provides for adequate accommodation and space which exceeds the minimum residential standards required in the Dublin City Development Plan. I note that the proposed external amenity space meets the DCDP requirements, but that the depth of the space falls short of the 7.5m required. I also note that the plans submitted with the

application to DCC had sought to increase the previously permitted depth of the rear courtyard area, but in doing so, reduced the area available to the main house on the overall site. The return to the previously permitted boundary between the existing house and the subject site has seen the proposed balcony at first floor level to overhang the adjacent lane. Having regard to the planning history of the site, and the extant permission for the construction of a two-storey mews house on the site, I am satisfied that the development proposes adequate private amenity spaces for future occupants while retaining an acceptable level of private amenity space for the existing house fronting onto Belgrave Square West.

- 7.3.2. While I acknowledge that the separation distance between the proposed house and the existing houses falls short of the recommended 22m at upper floor levels, I am generally satisfied that the proposed 18m can be considered acceptable given the planning history of the site. The Board will note however, that third-parties have raised concerns in terms of the perceived overdevelopment of the site and the potential impacts arising with regard to overshadowing and overlooking of existing properties.
- 7.3.3. The proposed development if permitted, will result in a plot ratio of approximately 0.86 and a site coverage of 44%. Having regard to the location of the site within Zone Z2 of Dublin City, the Dublin City Development Plan provides that a plot ratio of between 0.5-2.0 and site coverage of 45% is appropriate. In this regard, the development is deemed acceptable in terms of plot ratio and site coverage. Having regard to the context of the subject site, together with the proposed private amenity space, I am satisfied that the development as proposed is acceptable in this regard.
- 7.3.4. In terms of overshadowing, the Board will note the concerns of the homeowner to the north of the subject site. It is submitted that given the height and verticality of the proposed development, which is considered to be inappropriate for a mews lane, would result in significant overshadowing of his home and garden for most of the day. I note that no shadow analysis or sunlight/daylight assessment were carried out as part of the subject application. There is, therefore, no analysis of the impact of the overshadowing potential of the development on the adjacent property and no daylight analysis presented.

7.3.5. I would note that the current proposal, while higher than the previously permitted two storey mews, is set back from the boundary wall and that the proposed roof design, may result in a minimal increase, if any, in terms of overshadowing. I would also note that the additional floor, may provide opportunity for additional overlooking of adjacent properties to occur but given the nature of the intended use of the rear first and second floor windows as bedrooms, I would not consider that the increase in overlooking opportunity would warrant refusal of permission. I have already considered that the proposed development, however, would result in a significantly overbearing and dominant feature in the area, and this concern extends to the neighbouring properties, with significant impacts on the existing residential amenity of these properties.

7.4. Other Issues

7.4.1. Servicing of the site

No issues arise in relation to the servicing of the proposed development.

7.4.2. 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.

8.0 Appropriate Assessment

8.1. Introduction

8.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.

8.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. The applicant

did not submit an Appropriate Assessment Screening Report or a Natura Impact Statement with the application.

8.1.3. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.

8.1.4. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:

- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
- Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

8.2. Consultations

8.2.1. The Board will note that all third-party observations and Local Authority submissions and consultations are summarised above in Section 3 of this report. No issues relating to AA are noted as having been raised.

8.3. Screening for Appropriate Assessment

8.3.1. The applicant did not prepare an Appropriate Assessment Screening Report as part of the subject application. The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (&pNHA) (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approximately 3.6km to the east of the site. The North Dublin Bay SAC (Site Code: 000206) and North Bull Island SPA (Site Code: 004006) is located approximately 6.8km to the north-east of the site.

8.3.2. In terms of AA, the Board will note that the development is not directly connected or necessary to the management of a European Site. There are 20 Natura 2000 Sites occurring within a 15km radius of the site. I am satisfied that following sites can be screened out in the first instance, as they are located outside the zone of significant impact influence because the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is no potential impact pathway connecting the designated sites to the development site and therefore, I conclude that no significant impacts on the following sites is reasonably foreseeable. I am satisfied that the potential for impacts on the following 15 Natura 2000 sites can be excluded at the preliminary stage:

Site Name	Site Code	Assessment
Baldoyle Bay SAC	000199	Site is located entirely outside the EU site and therefore there is no potential for direct effects. No habitat loss arising from the proposed development. No disturbance to species. No pathways for direct or indirect effects. Screened Out
Baldoyle Bay SPA	004016	Site is located entirely outside the EU site and therefore there is no potential for direct effects. No habitat loss arising from the proposed development. No disturbance to species. No pathways for direct or indirect effects. Screened Out
Howth Head SAC	000202	Site is located entirely outside the EU site and therefore there is no potential for direct effects. No habitat loss arising from the proposed development. No disturbance to species. No pathways for direct or indirect effects. Screened Out

Howth Head Coast SPA	004113	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Rockabill to Dalkey Island SAC	003000	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Dalkey Island SPA	004172	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Irelands Eye SAC	002193	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Irelands Eye SPA	004117	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p>

		No pathways for direct or indirect effects. Screened Out
Glenasmole Valley SAC	001209	Site is located entirely outside the EU site and therefore there is no potential for direct effects. No habitat loss arising from the proposed development. No disturbance to species. No pathways for direct or indirect effects. Screened Out
Knocksink Wood SAC	000725	Site is located entirely outside the EU site and therefore there is no potential for direct effects. No habitat loss arising from the proposed development. No disturbance to species. No pathways for direct or indirect effects. Screened Out
Ballyman Glen SAC	000713	Site is located entirely outside the EU site and therefore there is no potential for direct effects. No habitat loss arising from the proposed development. No disturbance to species. No pathways for direct or indirect effects. Screened Out
Wicklow Mountains SAC	002122	Site is located entirely outside the EU site and therefore there is no potential for direct effects. No habitat loss arising from the proposed development. No disturbance to species. No pathways for direct or indirect effects. Screened Out
Wicklow Mountains SPA	004040	Site is located entirely outside the EU site and therefore there is no potential for direct effects.

		<p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Malahide Estuary SAC	000205	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>
Malahide Estuary SPA	004025	<p>Site is located entirely outside the EU site and therefore there is no potential for direct effects.</p> <p>No habitat loss arising from the proposed development.</p> <p>No disturbance to species.</p> <p>No pathways for direct or indirect effects.</p> <p>Screened Out</p>

8.3.3. I consider that the following Natura 2000 sites, located within 15km of the subject site, can be identified as being within the zone of influence of the project, for the purposes of AA Screening, as follows:

- North Dublin Bay SAC (Site Code: 000206)
- North Bull Island SPA (004006)
- South Dublin Bay SAC (000210)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- Poulaphuca Reservoir SPA (004063)

8.4. Qualifying Interests for Natura 2000 Sites within Zone of Influence

8.4.1. The closest Natura 2000 sites, and those considered to be within the zone of influence for the proposed development, as there are potential pathways via the surface water drainage and wastewater drainage infrastructure, and therefore, hydrological links to the designated sites, are the South Dublin Bay SAC (&pNHA) (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which are located approximately 3.6km to the east of the site. The North Dublin Bay SAC (Site Code: 000206) and North Bull Island SPA (Site Code: 004006) is located approximately 6.8km to the north-east of the site. The following table sets out the qualifying interests for each of these sites:

European Site	Qualifying Interests
<p>South Dublin Bay SAC (Site Code: 000210) Located approx. 3.6km to the east of the site</p>	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140]
<p>South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024) Located approx. 3.6km to the east of the site.</p>	<ul style="list-style-type: none"> • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130] • Ringed Plover (<i>Charadrius hiaticula</i>) [A137] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Knot (<i>Calidris canutus</i>) [A143] • Sanderling (<i>Calidris alba</i>) [A144] • Dunlin (<i>Calidris alpina</i>) [A149] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Redshank (<i>Tringa totanus</i>) [A162] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Roseate Tern (<i>Sterna dougallii</i>) [A192] • Common Tern (<i>Sterna hirundo</i>) [A193] • Arctic Tern (<i>Sterna paradisaea</i>) [A194] • Wetland and Waterbirds [A999]

<p>North Dublin Bay SAC (Site Code: 000206)</p> <p>Located approx. 6.8km to the east of the site.</p>	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Annual vegetation of drift lines [1210] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Embryonic shifting dunes [2110] • Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120] • Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] • Humid dune slacks [2190] • <i>Petalophyllum ralfsii</i> (Petalwort) [1395]
<p>North Bull Island SPA (Site Code: 004006)</p> <p>Located approx. 6.8km to the east of the site.</p>	<ul style="list-style-type: none"> • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] • Shelduck (<i>Tadorna tadorna</i>) [A048] • Teal (<i>Anas crecca</i>) [A052] • Pintail (<i>Anas acuta</i>) [A054] • Shoveler (<i>Anas clypeata</i>) [A056] • Oystercatcher (<i>Haematopus ostralegus</i>) [A130] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Grey Plover (<i>Pluvialis squatarola</i>) [A141] • Knot (<i>Calidris canutus</i>) [A143] • Sanderling (<i>Calidris alba</i>) [A144] • Dunlin (<i>Calidris alpina</i>) [A149] • Black-tailed Godwit (<i>Limosa limosa</i>) [A156] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162]

	<ul style="list-style-type: none"> • Turnstone (<i>Arenaria interpres</i>) [A169] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Wetland and Waterbirds [A999]
<p>Poulaphouca Reservoir SPA (Site Code: 004063)</p> <p>Located approx. 21.8km to the south-west of the site</p>	<ul style="list-style-type: none"> • Greylag Goose (<i>Anser anser</i>) [A043] • Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]

8.4.2. It is noted that the subject development site is located outside all of the Natura 2000 sites identified above, and therefore there is no potential for direct effects to any designated site. The subject development site is an urban brownfield site and is not located within any designated site. The site does not contain any of the intertidal habitats or species associated with any Natura 2000 site. The existing site is composed entirely of buildings and artificial surfaces and domestic garden, within a built-up area of Dublin City. I would note that the only pathway between the site and the Natura 2000 sites in Dublin Bay are via surface water drainage and wastewater drainage. In addition, the Poulaphuca Reservoir is considered to be within the zone of influence of the development as the SPA is the source of drinking water for Dublin City, including the proposed development site.

8.5. Conservation Objectives:

8.5.1. The Conservation Objectives for the relevant designated sites are as follows:

European Site	Conservation Objectives
<p>South Dublin Bay SAC (Site Code: 000210)</p> <p>Located approx. 3.6km to the east of the site</p>	<ul style="list-style-type: none"> • The NPWS has identified a site-specific conservation objective to maintain the favourable conservation condition of the Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets

<p>South Dublin Bay & River Tolka Estuary SPA (Site Code: 004024)</p> <p>Located approx. 3.6km to the east of the site.</p>	<ul style="list-style-type: none"> • The NPWS has identified site-specific conservation objectives to maintain the favourable conservation condition of the bird species listed as Qualifying Interests, as defined by a list of attributes and targets. • No site-specific objective has been set for the Grey Plover and it is proposed for removal from the list of Special Conservation Interest for the SPA.
<p>North Dublin Bay SAC (Site Code: 000206)</p> <p>Located approx. 6.8km to the east of the site.</p>	<ul style="list-style-type: none"> • The NPWS has identified a site-specific conservation objective to maintain the favourable conservation condition of the following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> ○ Mudflats and sandflats not covered by seawater at low tide [1140] ○ Petalophyllum ralfsii (Petalwort) [1395] • The NPWS has identified a site-specific conservation objective to restore the favourable conservation condition of the following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> ○ Annual vegetation of drift lines [1210] ○ Salicornia and other annuals colonising mud and sand [1310] ○ Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330] ○ Mediterranean salt meadows (Juncetalia maritimi) [1410] ○ Embryonic shifting dunes [2110] ○ Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120] ○ Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] ○ Humid dune slacks [2190]
<p>North Bull Island SPA (Site Code: 004006)</p>	<ul style="list-style-type: none"> • The NPWS has identified site-specific conservation objectives to maintain the favourable conservation condition of the bird species listed as Qualifying

Located approx. 6.8km to the east of the site.	Interests, as defined by a list of attributes and targets.
Poulaphouca Reservoir SPA (Site Code: 004063) Located approx. 21.8km to the south-west of the site	<ul style="list-style-type: none"> • There is a generic conservation objective to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for the SPA: <ul style="list-style-type: none"> ○ Greylag Goose (<i>Anser anser</i>) [A043] ○ Lesser Black-backed Gull (<i>Larus fuscus</i>) [A183]

8.6. Potential Significant Effects

8.6.1. The AA Screening Report, submitted with the application, includes an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives. In order for a significant effect of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives, to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As the proposed development site lies outside the boundaries of the European Sites, no direct effects are anticipated. With regard to the consideration of a number of key indications to assess potential effects, the following is relevant:

- **Habitat loss / alteration / fragmentation:** The subject site lies at a remove of some 3.6km from the boundary of any designated site. This separation distance is increased in terms of the course of the drainage network in Dublin City. As such, there shall be no direct loss / alteration or fragmentation of protected habitats within any Natura 2000 site.
- **Disturbance and / or displacement of species:** The site lies within an urbanised environment. No qualifying species or habitats of interest, for which the designated sites are so designated, are noted to occur at the site. As the subject site is not located within or immediately adjacent to any Natura 2000 site and having regard to the nature of the construction works proposed, there is little or no potential for disturbance or displacement impacts to species or habitats for which the identified Natura 2000 sites have been designated.

- **Water Quality:** The proposed development is to connect to existing public water services, and the Ringsend Wastewater Treatment Plant. It is noted that the Ringsend Treatment Plant is not currently compliant with its emission limit standards, but that work is underway to increase capacity. Notwithstanding the current issues with the WWTP, evidence suggests that no negative impacts to the Natura 2000 sites in Dublin Bay, and the habitats and species they support, are occurring from water quality. Having regard to the limited scale of the proposed development in the context of the overall licenced discharge at the Ringsend WWTP, I am generally satisfied that the development, if permitted, is unlikely to impact on the overall water quality within Dublin Bay.

8.6.2. The potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay can be excluded given the distance to such sites, the nature and scale of the development and the lack of a direct hydrological connection.

8.7. In Combination / Cumulative Effects

8.7.1. In relation to in-combination impacts, I note a number of planning permissions granted in the immediate vicinity, primarily for small residential developments. Having regard to the contribution of the proposed development to the wastewater discharge from Ringsend, together with all other matters raised above, I consider that any potential for in-combination effects on water quality in Dublin Bay can be excluded. In addition, I would note that all other projects within the Dublin Area which may influence conditions in Dublin Bay via rivers and other surface water features are also subject to AA.

8.8. Conclusion on Stage 1 Screening:

I have considered the detail of the proposed development, the NPWS website, aerial and satellite imagery, the limited scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude on the basis of the information available, that the proposed development, either 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.

9.0 Recommendation

I recommend that planning permission be refused for the proposed development for the following stated reason and subject to the following stated conditions.

10.0 Reasons and Considerations

The proposed development, by reason of its excessive height relative to surrounding buildings, its bulk, massing and its design would be out of character with the pattern of development in the vicinity. Given the prominent location of the site, it is considered that the proposed three storey building would be overbearing and would represent a dominant and incongruous feature within the existing context. The development would constitute a visually discordant feature that would be detrimental to the architectural and historic character of this residential conservation area and to the many protected structures located therein, the setting and special interest of which it is appropriate to preserve.

The proposed development would, therefore, by itself and by the precedent it would set for similar type development, seriously injure the amenities of the area contrary to Policies CHC1, CHC2 and CHC4 of the Dublin City Development Plan 2016-2022, as well as Section 16.10.16 of the Plan as it relates to Mews Dwellings. The development would therefore be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
8th October 2021

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Inspector's Report

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