



An
Bord
Pleanála

Inspector's Report ABP-310534-21

Development	Conversion to seven apartments and construct four-storey mews building with three apartments
Location	4 Belvedere Place, Dublin 1
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3935/20
Applicant(s)	MJH Property Management Ltd.
Type of Application	Permission
Planning Authority Decision	Split
Type of Appeal	First Party
Appellant(s)	MJH Property Management Ltd.
Observer(s)	N/A
Date of Site Inspection	1 st October 2021
Inspector	Colm McLoughlin

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1.0 Site Location and Description

1.1. The appeal site comprises a stated area of 313sq.m and is located on Belvedere Place on the north side of Dublin city centre, just off Mountjoy Square. It backs onto Fitzgibbon Lane, which is accessed from Fitzgibbon Street to the southeast. It is currently occupied by a four-storey over basement level mid-terrace building that has been listed in the Record of Protected Structure (RPS) accompanying the Dublin City Development Plan 2016-2022 (reference 679) and identified as being of regional rating in the National Inventory of Architectural Heritage (NIAH) under reference 50010794. This building has also been placed on the endangered buildings list held by the Planning Authority with works subsequently undertaken to secure its structural integrity. The front boundary onto Belvedere Place features a rail security fence, while the rear laneway boundary features block walls and a steel-palisade gate. The building features a three-storey rear return projection on the southeast boundary flanking an unkempt rear yard. The surrounding area is primarily characterised by similar style Georgian terrace buildings, which are occupied for a variety of commercial and residential purposes, several of which feature rear mews buildings. Ground levels on site are relatively flat, with a gradual drop in levels moving southeast in the surrounding area.

2.0 Proposed Development

- 2.1.** The proposed development comprises the following:
- demolition and removal of a rear lean-to structure;
 - restoration and renovation works to provide for seven one-bedroom apartments each ranging in size from 34sq.m to 64sq.m, with a stated gross floor area (GFA) of 591sq.m and a shared rear communal amenity space;
 - construction of a four-storey mews building abutting the rear laneway to provide for three studio apartments each measuring 38sq.m to 39sq.m with a stated GFA of 203sq.m and served by terraces and balconies for private amenity spaces;

- all associated development including services, associated building conservation, access and structural works, and the provision of lower ground-floor level storage areas, cycle parking and a rear footpath.

2.2. In addition to the standard drawings and documents, the planning application was accompanied by a Planning Report, a Protected Structure Impact Assessment, a Civil and Structural Method Statement and three-dimensional (3D) computer-generated images (CGIs) of the proposed development.

2.3. Following a request for further information, the proposed development was amended to provide revised accommodation, including alteration of the basement one-bedroom apartment (1) into a two-bedroom apartment (80sq.m) and the amalgamation of the two third-floor studio apartments (6 and 7) to form a two-bedroom apartment (73sq.m), the provision of additional bin stores, revised cycle parking and a reduced building height of three storeys for the rear new build mews element.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority issued a split decision, granting permission for the proposed element of the development comprising the renovation and refurbishment of the Protected Structure, allowing for six apartments, subject to 11 conditions of a standard nature. Concurrently, the Planning Authority refused to grant permission for the three-storey mews building, due to the constraints it would place on the remainder of the development and the laneway, and also due to the substandard private amenity space to serve the ground-floor studio apartment.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer (February 2021) noted the following:

- there are concerns regarding the scale of the new build element, primarily due to its impact on the Protected Structure, despite there being a permission for a

three-storey building on the adjoining site (DCC ref. WEB1360/15) and the poor appearance of the existing buildings onto the laneway;

- with the exception of the fourth-floor studio apartment, the living accommodation would comply with the minimum development standards;
- the ground-floor studio apartment to the new build unit would feature a substandard amenity space and this apartment would only be served by windows onto the public street or the communal space;
- a larger residential unit should be provided in the new build unit, as the proposed residential mix would not comply overall with the relevant standards;
- development standards with respect to floor-to-ceiling heights, dual aspect and minimum storage requirements would be achieved;
- the new build apartments would not feature private amenity space and would therefore provide for a substandard residential amenity;
- the new build element would not be subservient to the host building and it would impact on this Protected Structure;
- further information is required with respect to cycle parking proposals, the need for a reduced building height and revised rear elevation proposals for the mews building, and the need for review of the rear building line and adjoining footpath width.

The final report of the Planning Officer (May 2021) reflects the split decision of the Planning Authority and notes the following:

- the revised elevation and building height details, the use of the rear return for waste collection and the amalgamated studio units, would be satisfactory in addressing the relevant items of the further information requested;
- the revised layouts have resulted in communal space on site amounting to only 23sq.m and the private amenity space to serve apartment 8 would be substandard;
- a further adjustment of the rear building line, as required by the Conservation Officer, would reduce the internal floor areas to the studio apartments further,

and the provision of three studio apartments in a mews building represents an overdevelopment of this site;

- the cycle parking proposals would not be acceptable and a preliminary construction management plan is required.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) – no objection, subject to conditions;
- City Archaeologist – condition recommended;
- Conservation Officer – further information initially requested and subsequently recommended a grant of permission, subject to conditions, including use of conservation expertise and several revisions to the proposal details;
- Transportation Planning Division – further information initially requested regarding cycle parking, rear building line alignment and footpath width, and a preliminary construction management plan. Subsequently requested clarification of additional information regarding cycle parking and the rear building line alignment and footpath width.

3.3. Prescribed Bodies

- Irish Rail - no response;
- An Taisce - no response;
- The Heritage Council - no response;
- An Chomhairle Ealaíon - no response;
- Fáilte Ireland – no response;
- Minister for Arts, Heritage and the Gaeltacht - no response;
- Irish Water – no response;
- National Transport Authority – no response;
- Transport Infrastructure Ireland – the site is within a section 49 supplementary development contribution scheme area.

3.4. Third-Party Observations

3.4.1. During consideration of the application by the Planning Authority, two third-party observations were received, one from a neighbouring property owner and one from a local representative group. The issues raised in these observations can be collectively summarised as follows:

- the repair and refurbishment of the Protected Structure is to be welcomed, as is the level of research undertaken as part of this;
- inconsistencies in some of the development details are noted and additional details, as well as revised proposals for the rear return and mews building should be provided;
- a relaxation in apartment standards should not be allowed for and there would be greater scope for larger combined apartments due to the collapsed structure interiors;
- the siting of a mews building in the original rear garden space compromises the setting of the original building;
- a waste collection area is required;
- the studio apartments would only be suitable as short-term accommodation.

4.0 Planning History

4.1. Appeal Site

4.1.1. Pre-planning discussions between representatives of the Planning Authority and the applicant are stated to have been undertaken in October 2020, in order to discuss proposals relating to conversion of the Protected Structure and the construction of a mews building to provide for a total of eight apartments. The key issues raised at this pre-planning meeting related to the impact of the mews building and the lack of amenity or ancillary spaces. The Planning Authority state that a Section 59 'Endangerment Notice' was served on the owner of the subject Protected Structure in June under enforcement reference (ref.) C008/18. The following is the most recent application relating to the appeal site:

- DCC ref. 2858/20 – permission was refused by the Planning Authority in August 2020 for the construction of a four-storey mews building containing four apartments, due to concerns regarding the impact of the proposed building on the Protected Structure and the surrounding area, as well as the standard and mix of residential apartments.

4.2. Surrounding Sites

4.2.1. Reflective of the inner-urban character of the area, there have been a variety of planning applications in the immediate area, the following of which is of relevance to the subject appeal:

- DCC ref. WEB1360/15 – permission was granted by the Planning Authority in June 2016 for a three-storey mews building accommodating a two-bedroom house with an integrated off-street car parking space and a roof-level terrace on the adjoining site to the south (3 Fitzgibbon Lane). A condition was attached to the permission requiring the omission of a store at roof level.

5.0 Policy and Context

5.1. Development Plan

5.1.1. Based on the maps accompanying the Dublin City Development Plan 2016-2022, the front half of the appeal site onto Belvedere Place has a zoning objective 'Z8 – Georgian Conservation Areas', while the rear half has a zoning objective 'Z1 – Sustainable Residential Neighbourhoods' to protect, provide and improve residential amenities. The Z8 zoning on site overlaps a 'Conservation Area' and the entire site is located within the Mountjoy Square Architectural Conservation Area (ACA). Alongside the adjoining terrace of Georgian buildings, the house on site is included within the RPS appended to the Development Plan (RPS ref. 679).

5.1.2. Relevant planning policies for residential development are set out under Sections 5 (Quality Housing) and 16 (Development Standards) within Volume 1 of the Development Plan. The following policies are considered relevant to this appeal:

- Policy QH5 – addressing housing shortfall through active land management;
- Policy QH6 – sustainable neighbourhoods with a variety of housing;

- Policy QH7 – promotion of sustainable urban densities;
- Policy QH8 – promoting the development of vacant and under-utilised sites;
- Policy QH11 – promotion of safety and security in new developments;
- Policy QH13 – new housing should be adaptable and flexible;
- Policy QH25 - encourage the re-introduction of residential uses into the historic areas of the city.

5.1.3. Other relevant sections of the Development Plan include the following:

- Section 4.5.3 - Making a More Compact Sustainable City;
- Section 4.5.9 – Urban Form and Architecture;
- Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);
- Section 11.1 – Built Heritage;
- Section 16.2 – Design, Principles and Standards;
- Section 16.7.2 - building height limits, including a 24m restriction for residential developments in the subject inner-city area;
- Section 16.10 - Standards for Residential Accommodation;
- Section 16.10.16 – Mews Dwellings;
- Section 16.38 – Car Parking Standards (Zone 1 – maximum of 1 space per residential unit).

5.1.4. Dublin City Council has started the preparation of a new Dublin City Development Plan for the period 2022 to 2028. It is understood that a draft Development Plan is intended to be submitted to the members of the Council for their consideration in late November 2021.

5.2. Planning Guidelines

5.2.1. The following planning guidance and strategy documents are relevant:

- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020);

- Urban Development and Building Heights Guidelines for Planning Authorities (2018);
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009);
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011).

5.3. Natural Heritage Designations

5.3.1. The nearest European sites to the appeal site, including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), comprise the following:

Table 1. Natural Heritage Designations

Site Code	Site Name	Distance	Direction
004024	South Dublin Bay and River Tolka Estuary SPA	2.0km	east
000210	South Dublin Bay SAC	3.7km	southeast
004006	North Bull Island SPA	5.1km	east
000206	North Dublin Bay SAC	5.1km	east
000199	Baldoyle Bay SAC	9.5km	northeast
004016	Baldoyle Bay SPA	9.7km	northeast
000202	Howth Head SAC	10.7km	northeast
003000	Rockabill to Dalkey Islands SAC	11.2km	east
000205	Malahide Estuary SAC	12.0km	northeast
004025	Malahide Estuary SPA	12.0km	northeast
001209	Glenasmole Valley SAC	13.3km	south
002122	Wicklow Mountains SAC	13.4km	south
004040	Wicklow Mountains SPA	13.6km	south
004113	Howth Head Coast SAC	13.3km	northeast
004117	Ireland's Eye SPA	13.3km	northeast
002193	Ireland's Eye SAC	13.6km	northeast

004172	Dalkey Islands SPA	14.1km	southeast
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5.4. Environmental Impact Assessment - Preliminary Examination Screening

5.4.1. An Environmental Impact Assessment (EIA) Screening report was not submitted with the application. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001-2021 provides that mandatory EIA is required for the following classes of development:

- construction of more than 500 dwelling units;
- 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 ('business district' means a district within a city or town in which the predominant land use is retail or commercial use).

5.4.2. It is proposed to construct a three-storey mews building containing three apartments and convert the protected structure to provide six apartments. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall stated area of 0.03ha and is located within an existing built-up area, but not in a business district given the predominance of residential uses. The site area is, therefore, well below the applicable threshold of 10ha. The site accommodates a vacant residential building and is surrounded by a mix of uses. The reintroduction of a residential development on site would not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural heritage and the proposed development is not likely to have a significant effect on any European Site (as concluded below under section 8 of this report) and there is no hydrological connection present such as would give rise to significant impact on nearby watercourses. The development would entail the refurbishment of a Protected Structure. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be marginal.

5.4.3. Having regard to: -

- the nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001-2021;
- the location of the site on lands that are zoned as Z8 – Georgian Conservation Areas’ and ‘Sustainable Residential Neighbourhoods’ providing for residential uses under the provisions of the Dublin City Development Plan 2016-2022, and the results of the strategic environmental assessment of the Dublin City Development Plan 2016-2022, undertaken in accordance with the SEA Directive (2001/42/EC);
- the location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity;
- the location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001-2021;
- the guidance set out in the ‘Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development’, issued by the Department of the Environment, Heritage and Local Government (2003), and;
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001-2021;
- I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development would not be necessary in this case.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The first-party grounds of appeal, which were accompanied by site plan and basement (lower ground-floor) level drawings, 3D CGIs and a preliminary

construction management plan, solely relate to the refusal of the rear new build element and can be summarised as follows:

- historical mapping for the area reveals that the appeal site had previously accommodated a mews building;
- the rear mews element underpins the overall viability of the redevelopment and refurbishment proposals for the Protected Structure;
- the rationale for the application proposals comprising the entire site area and not just the rear area was based on the previous decision of the Planning Authority to refuse permission for a mews development on this site (DCC ref. 2858/20) and it was never the intention of the appellant to avoid renovation and repairs to the host building;
- flexibility is required with respect to the development proposals meeting specific guideline targets and Development Plan standards;
- the development proposals have been revised to address various concerns raised by the Planning Authority, including tie-ins with the adjoining permitted development (DCC ref. WEB1360/15) and footpath, a reduced building height for the mews element, revised floor plans and internal layouts, as well as alterations to the residential accommodation;
- precedent for the proposals is set by recent developments in the neighbouring area, including a three-storey building on the northern end of Fitzgibbon Lane onto the North Circular Road (DCC ref. 2400/17) and a five-storey development to the rear of nos.15/16 Gardiner Street (DCC ref. 4610/06);
- proposals would regenerate, rejuvenate and improve the appearance of the area, while also providing much-needed city centre residential accommodation;
- the narrowing of an existing footpath would not arise, as currently there is no footpath along the rear laneway bounding the site and the development has been designed cognisant of the permitted building line to the adjoining property at no.3 and the existing footpath alignment running along the lane;
- following the applicant's further information response no comment on the proposed widening of the footpath from 1.5m to 1.67m has been provided by

the Roads and Transportation Planning Division of the Planning Authority and the 0.12m shortfall in the rear footpath width does not warrant a refusal of planning permission for the mews building, particularly given the minimum 7m-width of the laneway and the scope to slightly shift the mews building, if needed;

- the Planning Authority is being inflexible with regard to the location of the cycle parking, and this could reasonably be positioned internally within the building or in other locations on site to free up the rear amenity area and meet the Planning Authority's requirements for this to be sheltered and secure;
- flexibility should be applied with respect to the depth of the private amenity space serving unit 8 and the screening provided for the bin stores relative to this amenity space;
- there are several contradictions in the Planning Authority's assessment with respect to the communal space provided, the scope for cycle parking on site and the provision of bin stores;
- there are several public open space amenity areas within the immediate area of the site, including Mountjoy Square.

6.2. Observations

6.2.1. None received.

6.3. Planning Authority Response

6.3.1. The Planning Authority did not respond to the grounds of appeal.

7.0 Assessment

7.1. Introduction

7.1.1. Based on the provisions of the Dublin City Development Plan 2016-2022, I am satisfied that the redevelopment of the appeal site for residential purposes would comply, in principle, with the zoning objectives for this site and would promote the regeneration of this inner-urban infill brownfield site. The subject proposals would

also support policy QH25 of the Development Plan by reintroducing residential uses into an historic area of the city. As per the Guidelines for Sustainable Residential Development and policies QH7, QH8 and SC13 of the Development Plan, the acceptability or otherwise of the proposed development requires the proposals to respect and integrate with the surrounding character and to have due consideration for the protection of surrounding residents, households and communities. Revised drawings were submitted with the planning application in response to a further information request from the Planning Authority, primarily addressing the internal layouts and accommodation mix within the host building, while also addressing the height of the rear mews building and the ancillary requirements for the development. It is these revised proposals that I consider in my assessments below.

7.1.2. Having examined the application details and all other documentation on file, including the grounds of appeal solely with respect to the refusal of planning permission for the three-storey mews building, having inspected the site and having regard to the relevant local and national policies and guidance, I consider that the main issues in this appeal are as follows:

- Impact on Architectural Heritage;
- Layout, Scale and Design;
- Residential Development Standards.

7.2. Impact on Architectural Heritage

7.2.1. The Planning Authority's reason for refusal of the mews building element to the proposed development does not refer to the impact of the development on the setting and character of the Protected Structure on site or Protected Structures within the immediate area. Furthermore, the reason for refusal does not refer to the impact of the new building on the architectural quality of the Mountjoy Square ACA. The overall height of the mews building (8.5m), which would be well within Development Plan maximum standards (24m), was reduced by 2.2m as part of the appellant's response to a further information request and I am satisfied that this building would appear subservient to the host historic building and as it would be primarily finished with a buff-coloured brick and sufficiently separated by 4m to 14m from the host building, it would not overwhelm or substantively interfere with the

setting or character of the Protected Structure on site or those within the immediate area. The buildings along the rear of the immediate stretch of Fitzgibbon Lane are of limited architectural merit and do not form part of the primary elements, which the Planning Authority's Mountjoy Square ACA report aspires to retain and conserve as part of the character and setting of the ACA. The proposed development would provide a contemporary building onto the rear laneway and I am satisfied that it would not detrimentally impact on the architectural heritage of the area given its context, scale and design.

- 7.2.2. As highlighted throughout the Planning Authority's assessment, the majority of the development details with respect to the refurbishment and renovation of the Protected Structure would broadly fit in with guidance contained within the Architectural Heritage Protection Guidelines. The Conservation Officer for the Planning Authority requires a number of matters to be revisited via the attachment of conditions and I address such matters, including those pertaining to the proposed bin store location, as part of my assessment further below. Many of the issues raised require revisions to the internal layouts and details for the apartments within the historic building and I am satisfied that these matters can be addressed as conditions in the event of a grant of planning permission for the proposed development. Accordingly, I am satisfied that the proposed development would provide a satisfactory response with regard to the architectural heritage of the area and permission for the proposed development should not be refused for this reason.

7.3. Layout, Scale and Design

- 7.3.1. The Planning Authority's reason for refusal of planning permission refers to concerns with respect to the siting of the proposed mews building, the alignment of the rear building line to this building and the width of the proposed footpath to the rear. Section 16.2.1 of the Development Plan relating to 'Design Principles', seeks to ensure that development responds to the established character of an area, including building lines, while section 16.10.16 requires a unified approach in developing mews lanes within the city.
- 7.3.2. The appellant asserts that the layout, scale and design of the adjoining previously permitted mews building at no.3 Fitzgibbon Lane provides a significant precedent with respect to the layout, scale and design of development achievable on the

appeal site (DCC ref. WEB1360/15). From the outset, I note that the development subject of this neighbouring permission does not appear to have been commenced and the subject permission would have lapsed in July of 2021. I am not aware of any application for an extension of the duration of this permission and I note that the drawings provided by the appellant to show the relationship of the subject proposals to this previously permitted development (see 3D Views drawing no.934 PL-15), fail to recognise that a condition was attached requiring alterations to the adjoining permitted roof structure via the omission of a store at roof level. Notwithstanding this and in supporting a unified development approach, I am satisfied that the previous permission does provide a reasonable guide as to the layout, scale and design of mews development that might also be achievable on the subject site.

- 7.3.3. The layout of the proposed development addresses the need to provide an accessible communal open space area, as well as access to shared bin stores and secure cycle parking spaces. I address the acceptability of these aspects of the proposed development under the heading 'Residential Development Standards' directly below. The layout would facilitate through access for residents from the front to the rear of the development, with direct access to the basement-level apartment (1) and shared access to five apartments (2, 3, 4, 5 and 6) off Belvedere Place, while the primary access for the three mews building apartments (8, 9 and 10) would be from a shared access off Fitzgibbon Lane. The layout would create a defined urban edge to the site along this rear laneway.
- 7.3.4. The existing mews buildings along Fitzgibbon Lane to the southeast create an urban edge characterised by a terrace of single and two-storey buildings, which I have noted above not to be of substantial architectural merit and I am satisfied that their appearance is of limited value to the streetscape or in guiding the design of the subject proposals. The existing rear boundary wall and gate on site sit forward of the rear boundary to the adjoining property at no.3 by 1.2m. The rear boundary and gate would be removed as part of the proposed development, and following a response to further information the rear building line for the proposed mews building would be set back by a further 0.3m, although this would still sit forward of the rear boundary wall to no.3 by 0.12m. The Transport Planning Division require the footpath to be widened by an additional 0.12m depth, which would require the proposed mews building to be repositioned slightly further back into the site. As the

currently proposed footpath would measure 1.67m, an additional width of 0.12m would not appear to provide any substantive benefits from an accessibility perspective. Notwithstanding this, it appears that the proposed rear building line has not been designed to precisely tie in with the existing building line or the previously permitted building line (DCC ref. WEB1360/15) to no.3, and this would be necessary in order to create a flush boundary and a unified building line along the laneway. Accordingly, to comply with the approach set out in section 16.10.16 of the Development Plan, I am satisfied that a condition should be attached to require an additional 0.12m setback for the proposed mews building. I address the implications of this on the remainder of the development, including the communal open space, within the section addressing 'Residential Development Standards' directly below.

- 7.3.5. Undue impacts on the residential amenities of neighbouring properties, such as those potentially arising from excessive overlooking or overshadowing, would not arise due to the design and orientation of the existing and proposed buildings, as well as the separation distance from existing residential properties, including those on the opposite side of Fitzgibbon Lane. In response to the request of the Road and Traffic Planning Division, the appellant submitted a preliminary Construction Management Plan with the appeal addressing environmental issues, works schedules, traffic management and access routes. It is stated that the final construction management plan would be subject to agreement with the Planning Authority at compliance stage and I am satisfied that this would require a standard condition in the event of a permission.
- 7.3.6. In conclusion, the proposals provide an appropriate design response, and with the attachment of a condition to address the rear building line, permission for the proposed development should not be refused for reasons relating to the layout, scale and the design of the proposals.

7.4. Residential Development Standards

- 7.4.1. The Planning Authority's reason for refusal of planning permission also refers to concerns with respect to the impact of the mews building on the communal open space to serve the apartments, which they consider would result in a substandard and unacceptable form of residential development. The reason for refusal also refers to a compromised area of private amenity space to serve a ground-floor

residential unit. Based on the Planning Officer's report, it is assumed that this is a reference to apartment 8 in the mews building and not apartment (3) in the Protected Structure. The Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2020) allow for relaxations in development standards with respect to small-scale refurbishment schemes of up to nine residential units and with historic buildings where owners must work with the existing building fabric and dimensions. The proposals would provide for nine apartments in a mix of four one-bedroom apartments, two two-bedroom apartments and three studio apartments. I am satisfied that the development would add to the mix of housing typologies in the area, reflective of contemporary household formation.

7.4.2. Having regard to the floor areas, layouts, configurations, aspect and floor to ceiling heights, while being cognisant of the standards within the New Apartment Guidelines, I am satisfied that the proposed development would provide for a suitable and acceptable form of accommodation for future occupants of the apartments within the Protected Structure. Each of the three proposed studio apartments in the mews building would have dual aspect and storage areas in compliance with the New Apartment Guidelines. The ground-floor mews apartment (8) would feature a floor to ceiling height 0.16m below the minimum 2.7m required in the New Apartment Guidelines and the first-floor studio apartment (10) would feature a floor area 4sq.m below the minimum required floor area. The shortfall in height and floor area for these apartments would not be substantive and the proposals in this respect would be acceptable given the overall design and quality of accommodation of the subject apartments, as well as the discretion allowed for in the New Apartment Guidelines in this context.

7.4.3. Apartments 9 and 10 in the upper-floor to the proposed mews building would be served by balcony spaces overlooking the laneway measuring approximately 4sq.m and with depths exceeding the minimum of 1.5m required for these spaces within the New Apartment Guidelines and the Development Plan. The 4sq.m terrace serving as amenity space for the lower ground-floor mews apartment (8) would also meet the minimum relevant area standards, but the Planning Authority assert that the 1m depth of this terrace and its location adjoining a bin store and a circulation area would offer limited amenity for future residents of this apartment and would fail to strictly comply with the depth required in the New Apartment Guidelines.

Considering the discretion provided for in the New Apartment Guidelines, the constraints in developing this city-centre site, which also contains a Protected Structure, and the fact that the bin store would be internalised 3m from the terrace, I am satisfied that it would provide a reasonable provision of amenity space to serve future residents of the subject studio apartment (8).

7.4.4. Based on the revised schedule of accommodation, the standards contained in the New Apartment Guidelines and the Development Plan would require the provision of 46sq.m of communal open space to serve the development, while the applicant states that 60sq.m of communal open space would be provided. Notwithstanding that this 60sq.m does not appear to account for the positioning of a cycle parking locker and the necessity to shift the mews building back into the site by 0.12m, I am satisfied that the resultant provision of communal open space (approximately 56sq.m) would be sufficient to serve the development and would comply with the relevant minimum standards. Communal refuse collection for the development is proposed at lower-ground floor within the rear return projection. The Conservation Officer for the Planning Authority has sought that the bin stores are located elsewhere on site due to the historical significance of the rear projection. An alternative position for the bin stores has not been suggested by the Planning Authority and there would appear to be very limited opportunity elsewhere within the development to facilitate same, while maintaining the same level of residential development. I am satisfied that the integrity of the Protected Structure would not be substantially undermined by the proposed internal use of the lower-ground floor rear projection for bin stores and this location would offer a suitable central and secure collection area for waste to serve the development. Based on the New Apartment Guidelines, a total of 16 cycle parking spaces would be required to serve the subject apartments and visitors to the development. A total of 16 cycle parking spaces are proposed, with eight spaces in a double-height locker within the rear communal space, as well as eight cycle spaces at lower-ground floor level within the front former coal bunker, the lobby to apartment 1 fronting the site and a rear undercroft space. While more accessible locations for the cycle parking spaces would be desirable, this is primarily restricted by virtue of the scale of the Protected Structure on the site and the provision of a mews residential building. Notwithstanding this, the overall provision of cycle parking to serve the development would be acceptable

and in accordance with the New Apartment Guidelines. Development contributions would be applicable to the new build element of the proposed development and the provision of nine apartments would trigger Part V social housing requirements.

- 7.4.5. In conclusion, I am satisfied that the proposed development would provide an appropriate level of accommodation and amenity for future occupants of the residential units, compliant with the provisions outlined in the Development Plan and the New Apartments Guidelines and permission for the proposed development should not be refused for this reason.

8.0 Appropriate Assessment

8.1. Stage 1 – Screening

- 8.1.1. A report screening for Appropriate Assessment was not submitted with the planning application.

8.2. Relevant European Sites

- 8.2.1. The nearest European sites are listed in section 5.3 of this report. Qualifying interests and conservation objectives for each of the sites are listed on the National Parks and Wildlife Services (NPWS) website (www.npws.ie).

8.3. Is the Project necessary to the Management of European sites?

- 8.3.1. The project is not necessary to the management of a European site.

8.4. Direct, Indirect or Secondary Impacts

- 8.4.1. The potential direct, indirect and secondary impacts that could arise as a result of the proposed works and which could have a negative effect on the qualifying interests of European sites, include the following:
- impacts on water quality, for example via release of suspended solids, accidental spills or the release of contaminants from made ground during construction;

- loss or disturbance of habitat/species, for example, use of the appeal site by qualifying species.

8.5. Potential Effects

- 8.5.1. Based on the source-pathway-receptor model, the nearest pathways to the nearest designated sites from the appeal site are the Royal Canal, which is 270m to the northeast of the appeal site, flowing in a south-easterly direction into the River Liffey, which is 1.1km to the south of the appeal site, flowing in an easterly direction into Dublin Bay. The site is currently occupied by a vacant former residential building and contains no substantive features of ecological significance, with very limited vegetation existing on the site.
- 8.5.2. Surface water from the site would be discharged at rates compliant with the Greater Dublin Regional Code of Practice for Drainage Works to the public surface water drainage system. All foul water from the proposed development would be discharged via the public system to the Ringsend Waste Water Treatment Plant (WWTP). Permission has recently been granted (ABP-301798-18) for works that would increase the capacity of the plant from a population equivalent of 1.9 million to 2.4 million.
- 8.5.3. Having regard to the above, the urban context and the residential nature of the proposed development, I consider that the only potential pathways between the appeal site (source) and the European sites (receptors) would relate to drainage during construction and operation. Due to the nature of the application site and the proposed development there is no direct pathway to a European site, however there is a potential indirect pathway to coastal SACs and SPAs via surface and foul drainage networks and Ringsend WWTP.
- 8.5.4. Accordingly, with the exception of the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), the South Dublin Bay SAC (Site Code: 000210), the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206), I am satisfied that the other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on these European sites could be ruled out, either as a result of the separation distance from the appeal site, the extent of marine waters or given the absence of any direct hydrological or other

pathway to the appeal site. The conservation objectives for the four above named coastal sites are appended to this report. The conservation objectives largely relate to water-dependent habitats and species, including coastal and inter-tidal habitats and migratory wintering birds.

- 8.5.5. There is theoretically an indirect hydrological pathway between the application site and the four named coastal sites via the public drainage system and the Ringsend WWTP, where wastewater from the proposed development would be treated. However, I am satisfied that the distances are such that any pollutants post treatment from the Ringsend WWTP would be minimal and would be diluted and dispersed and, therefore, there is no likelihood that pollutants arising from the proposed development either during construction or operation could reach the designated sites in sufficient concentrations to have any likely significant effects on the designated sites in view of their qualifying interests and conservation objectives.

8.6. In-combination Impacts

- 8.6.1. I am satisfied that likely significant in-combination impacts would not arise.

8.7. Stage 1 – Screening Conclusion

- 8.7.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), the South Dublin Bay SAC (Site Code: 000210), the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206), or any other European site, in view of the sites' Conservation Objectives, and Appropriate Assessment and the submission of a Natura Impact Statement is not therefore required.
- 8.7.2. In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

9.0 Recommendation

- 9.1. Following the assessments above, I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the land-use zoning objectives for the site, as set out in the Dublin City Development Plan 2016-2022, to the nature, layout, scale and design of the proposed development and the existing pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would appropriately reintroduce residential uses onto this inner-city site, would not detrimentally impact on the architectural heritage of the area, including the character of setting of Protected Structures and the Mountjoy Square Architectural Conservation Area, would be acceptable in terms of design, height, layout and scale of development, would provide a suitable level of accommodation and amenity for future occupants, would not seriously injure the amenities of the area or of property in the vicinity and would comply with the provisions of the Dublin City Development Plan 2016-2022, the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (Department of Housing, Planning and Local Government, 2020) and the Architectural Heritage Protection: Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht, 2011). The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the Planning Authority on the 29th day of

April 2021, 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 proposed development shall be amended as follows:
 - (a) the proposed mews building shall be repositioned by a further 0.12m southwest into the site to provide for a 1.79m-wide footpath along Fitzgibbon Lane and a unified building line with the rear of the adjoining property to the southeast;
 - (b) all surviving historic doors to the Protected Structure shall be reused within their original opens, except for the historic door at third-floor level. Where doors are to be blocked, these shall be retained in situ, locked and upgraded to provide 30min fire resistance rather than being concealed,
 - (c) revised internal layouts to the Protected Structure showing new bathrooms repositioned from their proposed location in the centre of the floor plans at ground, first and second-floor levels, to locations along the party walls of the new construction, between the staircase area and the rear principle rooms,
 - (d) revised internal layout to the second-floor of the Protected Structure to retain and protect the historic door leading to the living room area,
 - (e) revised internal layout for the proposed bedrooms at third-floor in the Protected Structure to rationalise the location of the bedroom doors and regularise the shape of the respective proposed bedrooms.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual amenity, to ensure that the integrity of the retained structure is maintained and to comply with the standards of the Dublin City Development Plan 2016-2022 relating to mews developments.

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 balustrades, handrail and skirting boards, where indicated for retention, shall be protected during the course of refurbishment.

Reason: To ensure that the integrity of the retained structure is maintained and that the structure is protected from unnecessary damage or loss of fabric.

4. Each apartment shall be used as a single dwelling unit only and shall not be sub-divided in any manner or used as two or more separate habitable units.

Reason: In the interests of sustainable development and proper planning.

5. Details of the materials, colours and textures of all the external finishes to the proposed mews buildings and the landscaped communal open space shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.

7. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

8. 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 and to ensure a satisfactory standard of development.

9. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

10. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally-constituted management company. A management scheme providing adequate measures for the future maintenance of communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

- 11.** The construction of the development shall be managed in accordance with a Construction & Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide, inter alia, details and location of the proposed construction compound(s), details of intended construction practice for the development, including hours of working, noise and dust management measures, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

- 12.** 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.

- 13.** A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

- 14.** The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

- 15.** Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

- 16.** Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the

local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

17. 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.

18. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City project (St. Stephen's Green to Broombridge Line), in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Colm McLoughlin
Senior Planning Inspector

10th November 2021