



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313358-22

#### Development

#### PROTECTED STRUCTURE:

Construction of single 2-storey, 1-bedroom mews house with garden, including demolition of garage and all ancillary works.

#### Location

64 Grosvenor Square, Rathmines,  
Dublin 6, D06 KA66

#### Planning Authority

Dublin City Council South

#### Planning Authority Reg. Ref.

3174/22

#### Applicant(s)

Daniel O'Connell

#### Type of Application

Permission

#### Planning Authority Decision

Refuse

#### Type of Appeal

First Party

#### Appellant(s)

Daniel O'Connell

#### Observer(s)

1. Coakley O'Neill on behalf of:  
Duireann O'Flaherty and Vincent Lane, Grainne Fenton and Marc Mc Glade, Jane and Michael Williams, Sean and Mary Moriarty,

Claire Mennis and Ciaran  
McGovern.

**Date of Site Inspection**

12.05.2022

**Inspector**

Fiona Fair

## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	5
3.3. Prescribed Bodies .....	5
3.4. Third Party Observations .....	6
4.0 Planning History.....	6
5.0 Policy Context.....	8
5.1. Development Plan.....	8
5.2. Natural Heritage Designations .....	13
5.3. EIA Screening .....	13
6.0 The Appeal .....	13
6.1. Grounds of Appeal .....	13
6.2. Applicant Response .....	18
6.3. Planning Authority Response .....	18
6.4. Observations .....	18
6.5. Further Responses.....	19
7.0 Assessment.....	19
8.0 Recommendation.....	29
9.0 Reasons and Considerations.....	29
10.0 Conditions .....	29

## **1.0 Site Location and Description**

- 1.1.1. The appeal site contains a two storey red brick mid terrace dwelling and is located on the western side of Grosvenor Square. The previous planning history indicates that this property has been subdivided into 7 flats. The property is a Protected Structure (ref. 3401-House) within a Residential Conservation Area and is in close proximity to other protected structures. There is an existing garage structure at the back of the rear garden and the rear boundary backs on to Grosvenor Lane

## **2.0 Proposed Development**

- 2.1.1. Permission for the construction of a single 2-storey, 1-bedroom mews house with garden, accessed via Grosvenor Lane at the rear of the existing property, including demolition of an existing garage and all ancillary works.

## **3.0 Planning Authority Decision**

### **3.1.1. Decision**

Permission refused subject to three number conditions:

1. The proposal to site an additional residential dwelling in the rear garden of an existing property which is in multiple occupancy is considered over-development of the site and would negatively impact on the existing residents by virtue of reducing their private open space and as such would seriously injure their residential amenity and provide for sub-standard level of accommodation and as such is considered contrary to the Z2 zoning objective of the site which is 'to protect and/or improve the amenities of residential conservation areas'.

2. The proposal to site a part single, part two storey residential property in the rear garden of the existing dwelling is considered to seriously impact on the visual amenity of neighbouring properties given the limited separation distances between the new dwelling and the neighbouring properties and is considered over-development of the site and contrary to the existing character of the area setting an undesirable precedent for other similar type developments. The proposal is therefore considered to seriously injure the amenity of properties in the vicinity and would be

contrary to the Z2 zoning objective of the site and the proper planning and sustainable development of the area.

3. The failure to provide a dedicated off-street car-parking space to serve the proposed mews dwelling would be contrary to Section 16.10.16 Mews Dwellings (g) of the Dublin City Development Plan 2016-2022. The development would lead to increased overspill parking within Grosvenor Lane/St. Clare's Avenue and obstruction of the laneway resulting in traffic safety hazards. The development would set an undesirable precedent for similar sites throughout the City. Accordingly, the proposed development is considered to be contrary to the proper planning and sustainable development of the area.

### **Planning Authority Reports**

#### **3.1.2. Planning Reports**

- The proposal to accommodate a 'mews' dwelling in the rear garden of an existing dwelling in multiple occupancy is considered to be over-development of the site and would provide for a substandard level of residential amenity for the proposed and the existing units. It is also considered to set an undesirable precedent for other similar type of residential units in the immediate vicinity and as such is considered contrary to the Z2 zoning objective of the site and the proper planning and sustainable development of the area.

#### **3.1.3. Other Technical Reports**

Drainage Department: No objection subject to condition.

Road Planning Division: Further information requested with respect to in curtilage car parking provision.

Archaeology, Conservation and Heritage Division: No objection subject to conditions: with respect to (among other matters) photographic record of existing boundary walls and the existing rear wall with detailed information on the extant materials coursing and joint details. Reuse of stone within the site. Schedule of any repairs.

### **Prescribed Bodies**

None received.

### **Third Party Observations**

One number submission received. It is summarised as follows:

- Proposal is for a standalone development described as a mews property, therefore compliance with the Development Plan requirements on mews properties is required.
- Poor quality residential unit proposed.
- Concerns over waste removal truck and laneway.
- Sunlight and shadowing report for revised proposal shows no regard for the rear garden of No.65 only focusing on effect of the proposed development.
- Overbearing impact.
- Inadequate provision for private open space given that it will be used by 9 residences at any one time.
- Omission of in curtilage car parking.
- No car parking proposed for the mews dwelling will lead to over spill of car parking on the street.

### **4.0 Planning History**

**Reg. Ref. 2024/21:** Permission refused for the construction of a single 2-storey, 1 bedroom mews house with garden, including a car parking garage accessed via Grosvenor Lane at the rear of the existing property, including demolition of an existing garage and all ancillary works. Located @ 64 Grosvenor Square.

1. Having regard to its footprint, scale and massing, it is considered that the proposed development would appear over dominant in relation to the existing building, which is a protected structure, and in the context of the mews lane and setting of other nearby protected structures. 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 City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

2. Having regard to the scale, mass and form of the proposal, together with the inclusion of a window in close proximity to the rear garden of No. 65 Grosvenor Square, it is considered that the proposed building would result in an unacceptable impact on the amenity of neighbouring residents by virtue of overshadowing and loss of privacy. The proposed development would, therefore, seriously injure the amenities of neighbouring residents, would be contrary to the zoning objective and to Section 16 of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

3. Having regard to the limited depth and overlooked nature of the proposed rear amenity space and to the limited retained garden area to serve the existing apartments, it is considered that the proposed development would fail to provide adequate private amenity space for existing or future occupiers, contrary to the provisions of Chapter 16 of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

**Reg. Ref. 3657/19** Planning permission granted for single storey garage with pitched roof providing one car space with wc, access via Grosvenor Lane, all to the rear. Located @ 64 Grosvenor Square.

**Reg. Ref. 5795/07** Permission granted for the construction of a single storey garage with pitched roof, providing one car parking space. Access to the site via Grosvenor Lane. Located @ 64 Grosvenor Square.

**Surrounding area:**

**Reg. Ref. 3410/13** Planning permission granted for demolition of the existing single storey structure and the construction of two number two storey 2-bedroomed semi-detached mews houses to the rear of 57 Grosvenor Square.

**Reg. Ref. 5552/05** Planning permission granted for the demolition of the existing shed to the rear of the property (80 Grosvenor Square). The provision of a new 2 storey one bedroom mews house dwelling to Grosvenor Lane to the rear of the

property including private outdoor space, off-street car parking space and all associated groundworks.

**Reg. Ref. 1342/06** Planning permission granted for the provision of a new 2 storey one bedroom mews house dwelling to Grosvenor Lane at the rear, eastern side of the property (of 80 Grosvenor Square) including private outdoor space parking for one car and all associated groundwork

## 5.0 Policy Context

### 5.1.1. Development Plan

The subject site is zoned “**Z2**” - ‘**Residential neighbourhoods (Conservation Areas)**’, with the Zoning Objective ‘To protect and/or improve the amenities of residential conservation areas’, under the new Dublin City Development Plan 2022 – 2028.

#### **Development Plan policy of relevance:**

##### **14.7.2 Residential Neighbourhoods (Conservation Areas) – Zone Z2**

“Residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. A Zone Z2 area may also be open space located within or surrounded by an Architectural Conservation Area and/or a group of protected structures. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.

**Chapters 11: Built Heritage and Archaeology, and Chapter 15: Development Standards**, detail the policies and objectives for residential conservation areas and standards, respectively. Volume 4 of this plan contains the Record of Protected Structures. The principal land-use encouraged in residential conservation areas is housing but can include a limited range of other uses. In considering other uses, the



guiding principle is to enhance the architectural quality of the streetscape and the area, and to protect the residential character of the area”.

#### **15.13.4 Backland Housing**

Backland development is generally defined as development of land that lies to the rear of an existing property or building line. Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists.

Backland housing can comprise of larger scale redevelopment with an overall site access; mews dwellings with access from a rear laneway or detached habitable dwellings to the rear of existing housing with and independent vehicular access.

Developments with street presence are generally governed by clear set out rules established by the urban order of an existing streetscape. Backland development, however, requires more innovation and reinterpretation to enable comprehensive development of these spaces.

Consideration of access and servicing and the interrelationship between overlooking, privacy, aspect and daylight / sunlight are paramount to the success and acceptability of new development in backland conditions.

Where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development, this should be discussed at pre-planning stage. Piecemeal backland development with multiple vehicular access points will not be encouraged. See Appendix 5 for further details on vehicular access.

Applications for backland housing should consider the following:

- Compliance with relevant residential design standards in relation to unit size, room size, private open space etc.
- Provision of adequate separation distances to ensure privacy is maintained and overlooking is minimised.
- That safe and secure access for car parking and service and maintenance vehicles is provided.

- The scale, form and massing of the existing properties and interrelationship with the proposed backland development.
- The impacts on the either the amenity of the existing properties in terms of daylight, sunlight, visual impact etc. or on the amenity obtained with the unit itself.
- The materials and finishes proposed with regard to existing character of the area.
- A proposed backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- A relaxation in rear garden length, may be acceptable, once sufficient open space provided to serve the proposed dwelling and the applicant can demonstrate that the proposed backland dwelling will not impact negatively on adjoining residential amenity.

All applications for infill developments will be assessed on a case by case basis.

In certain instances, Dublin City Council may permit relaxation of some standards to promote densification and urban consolidation in specific areas. The applicant must demonstrate high quality urban design and a comprehensive understanding of the site and the specific constraints to justify the proposal.

### **Section 15.13.5 Mews**

#### **15.13.5.1 Design and Layout**

Dublin City Council will actively encourage schemes which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed. This unified approach framework is the preferred alternative to individual development proposals. Individual proposals however, will also be considered and assessed on a case by case basis.

Traditional and/ or high-quality contemporary design for mews buildings will be considered. The materials proposed should respect the existing character of the area and utilise a similar colour palette to that of the main structure.

The distance between the opposing windows of mews dwellings and of the main houses shall ensure a high level of privacy is provided and potential overlooking is minimised. In such cases, innovative and high-quality design will be required to ensure privacy and to provide an adequate setting, including amenity space, for both the main building and the mews dwelling.

Private open space shall be provided to the rear of the mews building to provide for adequate amenity space for both the original and proposed dwelling and shall be landscaped so as to provide for a quality residential environment. The open space area shall not be obstructed by off-street parking.

If the main house is in multiple occupancy, the amount of private open space remaining after the subdivision of the garden for a mews development shall meet both the private open space requirements for the main house divided into multiple dwellings and for mews development.

With regard to Protected Structures, where new boundary walls are proposed between the principal building and the associated mews / coach house, the proposed boundary line should be located at an appropriate distance from the building line of the Protected Structure so as to provide an appropriate amenity space for the Protected Structure.

The form and layout of the new development of mews structures should:

- Acknowledge the historic building plots where possible. Where a proposal extends over more than one building plot, articulation in the design and layout should be introduced to make reference to the original plot layout. The amalgamation or subdivision of plots on mews lanes will generally not be encouraged.
- The existing building line should be maintained where possible. The rear building line of new mews developments should be consistent with the existing mews plots where possible.
- The sensitive adaptive reuse of existing and new mews buildings for residential purposes will be encouraged and promoted.

#### **15.13.5.2 Height, Scale and Massing**

#### **15.13.5.3 Roofs**

#### **15.13.5.4 Access**

“Parking provision in mews lanes, where provided, may be in off-street garages, forecourts or courtyards, subject to conservation and access criteria. Car free mews developments may be permitted in certain circumstances where there are specific site constraints and where alternative modes of transport are available. Each development will be assessed on a case by case basis. Potential mews laneways must provide adequate accessibility in terms of private vehicular movements, emergency vehicles and refuse vehicles. Where access cannot be provided, an access and movement strategy must be provided to justify that the development can be adequately served. See Appendix 5 for further details. All mews lanes will be considered to be shared surfaces, and footpaths need not necessarily be provided. Where historic materials exist, roof materials, stone, paving surfaces, windows, joinery, ironmongery etc. these should be retained in order to protect the special character of the original mews lanes”.

### **Chapter 11: Built Heritage and Archaeology**

#### **11.5 Policies and Objectives**

##### **11.5.1 The Record of Protected Structures**

#### **BHA14: Mews**

It is the Policy of Dublin City Council:

“To promote the redevelopment and regeneration of mews lanes, including those in the north and south Georgian core, for sensitively designed, appropriately scaled, infill residential development, that restores historic fabric where possible, and that removes inappropriate backland car parking areas”.

#### **BHA05: Mews**

It is an Objective of Dublin City Council:

“To prepare a best practice design guide regarding appropriate mews development in the city, including for the north and south Georgian cores”.

#### 5.1.2. **Natural Heritage Designations**

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

#### 5.1.3. **EIA Screening**

5.1.4. Having regard to the nature of development comprising of a single dwelling in an urban area it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can therefore, be excluded by way of preliminary examination.

### 6.0 **The Appeal**

#### 6.1.1. **Grounds of Appeal**

6.1.2. First Party Appeal received. It is summarised as follows:

##### Refusal Reason No. 1

- The DCDP 2022 – 2028 sets out under 15.13.5.1 Design and Layout with respect to Mews Dwellings:

“If the main house is in multiple occupancy, the amount of private open space remaining after the subdivision of the garden for a mews development shall meet both the private open space requirements for the main house divided into multiple dwellings and for mews development”.

- 15.9.7 of the Development Plan with respect to ‘Apartment Standards’ states:

“Private amenity space shall be provided in the form of terrace, balcony or private garden and should be located off the main living area in the apartment. The minimum areas for private amenity are set out in Appendix 1 and Section 3.35 to 3.39 of the Sustainable Urban Housing: Design Standards for New Apartments (2020) for details”.

6.2. The host dwelling consists of 7 No. one bedroom (1 bedspace) units and the proposed mews dwelling consists of 1 No. one bedroom (2 bedspace) unit. In accordance with the minimum areas for private and communal amenity space, the total amenity area required to be provided is 8 No. one beds x 5sqm x 2 = 80sqm.

- 6.2.1. The proposed development is providing 76sqm of open amenity space, with the suggestion that 55sqm metres be allocated to the host dwelling and 20sqm to the proposed dwelling. The deficiency of 4sqm can be off-set when accepting that the proposed flat green roof is also an amenity and provides a greater distance of separation for existing buildings and boundaries. The roof will be planted with an appropriate Green Roof, to encourage biodiversity in the city, attenuate rainwater run off and minimize the urban heat island effect.
- 6.2.2. Landscaping is proposed and new landscaping required by ABP can be covered by way of condition.
- 6.2.3. Precedent case granted by ABP. Application No 1194/01 and ABP No. PU9S.127374 - Spireview Lane, Rear of 48 Grosvenor Road, Rathmines, Dublin 6 Two storey mews at rear of Protected Structure. Refused by the city council and granted on appeal. Accordingly, it can be considered that a reasonable level of provision of amenity open space has been provided to serve the proposed dwelling.
- 6.2.4. Both the Planning Authority and the Transport Planning Division have taken issue with the fact that the Appellant, who currently resides in the host dwelling, will become the occupier of the proposed dwelling and as such this gives rise to the provision of an additional unit Where the Appellant resides should not arise as the proposed development provides for tenure diversity.
- 6.2.5. The proposed development does not constitute over-development and the level of accommodation is not substandard. The zoning for the area will not be contravened.

#### Refusal Reason No. 2

- 6.2.6. A Sunlight & Shadow Analysis was submitted with the application in accordance with BRE Report Site Layout Planning for Daylight and Sunlight A Guide to Good Practice (BR 209) 2011. The analysis sets out how the proposed development will impact on adjoining properties in the area.
- 6.2.7. Paragraph 3.3.7 states:
- “It is recommended that at least half of a garden or amenity areas should have at least two hours of sunlight on 21<sup>st</sup> March. If as a result of a new development an

existing garden or amenity area does not meet the above, and the area which can receive two hours of sun on 21<sup>st</sup> March is less than 0.3 times its former value...

- 6.2.8. The results of the analysis found that 50% of the amenity area to the rear of no. 63 will continue to receive sunlight on 21<sup>st</sup> March in accordance with the above.
- 6.2.9. No. 63 being the property most liable to be affected. The said property will receive a reduction as follows:
- 7.2m<sup>2</sup> on March 21<sup>st</sup> @09.00hrs
  - 8.7m<sup>2</sup> on March 21<sup>st</sup> @12.00hrs
  - 4.5m<sup>2</sup> on June 21<sup>st</sup>@ 09.00hrs and
  - 1.3m<sup>2</sup> on June 21<sup>st</sup> @12.00hrs.
- 6.2.10. It should be noted that Reason No. 2 did not refer to loss of daylight and sunlight causing overshadowing as contributing to the alleged serious impact on the visual amenities of neighbouring properties.
- 6.2.11. The Development Plan is silent as regards the minimum separation distances between new dwelling and neighbouring dwellings, save as for the provision of a 22m separation distance between opposing windows at first floor level. As, there is no opposing window at first floor level within 22m of the window on the front of the proposed development, it can be considered that there is no loss of privacy and outlook.
- 6.2.12. The proposed development will not be injurious to the visual and residential of neighbouring properties. The zoning for the area will not be contravened.

### Refusal Reason No. 3

- 6.2.13. Item No.4 of the PAC Assessment pointed out that 'the parking standard for this area is a maximum of 1.5 spaces per dwelling. The proposed non-provision of car parking should be discussed with the Council's Transport Planning Division'. Workshop Architects consulted Transport Planning Division and received the following email from David Conway, DCC Executive Engineer, Traffic Planning Division stating:

*'It is noted that the proposed development is ancillary to the main dwelling, 64 Grosvenor Square, to which 4 no. car parking permits are allocated to.*

*The omission of off-street car parking is acceptable in principle having regard to mews being ancillary to the main house and in relative close proximity to public transport/services.*

6.2.14. Based on the assessment from DCC Traffic Planning Division, the application was submitted without any provision for off-street car parking. The proposal development is for 'car-free mews development' in line with Section 15.13.5.4 of the Draft Dublin City Development Plan:

*“Parking provision in mews lanes, where provided, may be in off-street garages, forecourts or courtyards, subject to conservation and access criteria. Car free mews developments may be permitted in certain circumstances where there are specific site constraints and where alternative modes of transport are available. Each development will be assessed on a case by case basis”.*

6.2.15. The site has the following criteria to support a case by case basis for a 'car free mews development':

- The site is situated within easy walking and cycling distance to the city centre and is 550m South of the Grand Canal.
- The site is situated within 250m of major high-frequency public transport routes along both Rathmines Road and Harold's Cross Road.
- The host dwelling has 4No. on-street parking permits.
- In light of decreasing car ownership generally and a move toward sustainable mixed-mode transport, with higher density city living, we do not believe that an on-site car parking garage would be beneficial to the proposal.
- On-site cycle and waste storage are included in the proposals.

6.2.16. Arising, from what appears to be erroneous commentary on the Report from Traffic Planning Division, Reason No. 3 for Refusal was inserted.

6.2.17. The Draft Dublin City Development Plan 2022-2028 requires 1 No. space per dwelling (houses, apartments duplexes) for all parking zones. Section 15.13.5.4 allows for 'car free mews developments' to be permitted in circumstance, where there are site constraints such as the proposed and where alternative modes of transport are available, such as the site in close proximity to two high frequency bus corridors.



6.2.18. Precedent exists in the immediate area for Mews without off-street car parking.

6.2.19. The appellant is willing to widen the laneway with suitable surface so that it can be Taken-in-Charge by DCC.

6.2.20. Workshop Architects were encouraged in pre-planning application consultations to reference the Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities, December 2020 (DHLG&H) as regards car parking and open space standards. In respect to car parking *'in central and/or accessible locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.'*

Accordingly, arising from the above, An Bord Pleanála has discretion with regards the provision of car parking to serve the proposed development and this Appeal request that it finds merit in deciding that a case has been made for a *'car free mews development'*.

6.2.21. The proposed development provides for tenure diversity as well as a variety of dwelling type and size for the area in accordance with Policy SC12 Housing Mix under Chapter 4 of Draft Dublin City Development Plan 2022-2028

6.2.22. National, regional and local policies now require that 30% of all new residential be located within the existing built environment. The site is located within the existing built environment and the proposed development has been designed to:

- enhance the urban form;
- be appropriate to its context and respect the established character of the area;
- not have an adverse impact on adjoining neighbours and neighbourhood;
- support local retailing, services and community facilities.

6.2.23. The proposed development had regard to Chapter 15 Development Management Standards of the Development Plans.

6.2.24. The proposed development complies with POLICY SC 11 Compact Growth of Chapter 4 of the Draft Dublin City Development Plan.

### **Alternative Proposal.**

6.2.25. The provision of a mews dwelling in the rear of the property has been the subject matter of two Pre-Planning consultations and applications. At each phase, the planning decision seems to contradict the advice given during the course of the consultations. In order to bring the matter to a speedy conclusion, an alternative proposal is now being submitted with the appeal. This revised proposal is for the provision of an off-street car parking space and a resultant reduction in the residential amenity open space to serve the provision of a mews dwelling on the site.

- (i) Drawing No. 2054-WRK-XX-ZZ-DR-A-0100 - Proposed Plans and
- (ii) Drawing No. 2054-WRK-XX-ZZ-DR-A-0200 - Proposed Section Elevations.

### **6.2.26. Applicant Response**

- None first Party Appeal.

### **6.2.27. Planning Authority Response**

- A Section 48 Development Contribution condition should be attached, in the event of a grant of planning permission.

### **6.2.28. Observations**

6.2.29. One received from Coakley O'Neill on behalf of the owners of No. 62 Grosvenor Square, No. 63 Grosvenor Square, No 65 Grosvenor Square, No. 67 Grosvenor Square and No. 43 Leinster Park. It is summarised as follows:

- The Board will note the sites planning history.
- The subject site is not suitable for development being diminutive in size, of conservation importance, in a backland location, with extremely poor accessibility.
- Precedent case examples cited do not present examples of good planning and should not be relied upon.
- The matter of cumulative impact of mews development along Grosvenor Square is of concern.

- Grosvenor Square is unique and should be preserved.
- There is sustained commentary whether the unit is an additional unit, a new unit, or a stand along unit, all confused by the proposal to provide communal open space in an effort to justify clear deficiencies.
- As no. 64 originally a three bedroom unit is now in use as a 7 bedroom space offering accommodation to 14 people, the number of people housed within the same curtilage would rise to sixteen.
- Over development, substandard form of accommodation.
- It is not clear as to the status of the property.
- The Board will note that the applicant identifies as the property owner in the documentation submitted with the application. The property price register shows a sale of Apartment No. 6 at 64 Grosvenor Square on 26/06/2018. It is not known if it was a separate sale or part of the purchase of the house by Mr. O'Connell. If it was a separate sale the statement that he owns the entire property is not true.
- Proposed development is substandard and would lead to over development and result in detrimental negative impacts on the amenity of residents in the immediate area.

#### 6.2.30. **Further Responses**

- None

## 7.0 **Assessment**

7.1.1. I have read all the documentation attached to this file including inter alia, the appeal submissions, the report of the Planning Authority and the further response received, in addition to having visited the site. The primary issues, as I consider them, are

- **Residential Amenity of the Existing Property at No. 64**
- **Residential Amenity and Visual Amenity of the area.**
- **Traffic and Parking matters**
- **Appropriate Assessment**

## **7.2. Residential Amenity of the Existing Property at No. 64**

- 7.2.1. The first reason for refusal, set out on full in section 3.0 of this report above, considers that the proposal to site an additional residential dwelling in the rear garden of an existing property which is in multiple occupancy is considered over-development of the site and would negatively impact on the existing residents by virtue of reducing their private open space and as such would seriously injure their residential amenity and provide for sub-standard level of accommodation and as such is considered contrary to the Z2 zoning objective.
- 7.2.2. Permission is sought for the demolition of an existing garage structure and its replacement / the construction of a 2-storey, 1-bedroom mews house (47.4 sq. m) with accommodation consisting of:
- Ground Floor: 30 sq. m open plan kitchen, living, dining area with a bathroom and stairs to first floor level.
  - First Floor: 17 sq. m comprising bedroom with wardrobe and storage area.
  - External Front: Recessed screened area to accommodate refuse bin and bicycle rack.
  - External rear: 76 sq. m communal open space to serve both the proposed and existing dwellings, incl. 20 sq. m new permeable terrace formed from re-use of existing stones on site.
- 7.2.3. I note for the attention of the Board that the applicant has submitted an alternative proposal with the first party appeal. It aims to overcome the reasons of refusal by the planning authority. The floor plan has been revised to incorporate an in-curtilage car parking space, the ground floor living (L/K/D) has been revised to 23.7 sq. m with additional bathroom and hall entrance, the first floor bedroom is indicated as 12 sq. m and the private residential amenity space combined as a result has been reduced to accommodate the car parking space. The private open space (POS) is indicated as revised to 63.9 sq. m. The following drawings have been submitted with the first party appeal:
- Drawing No. 2054-WRK-XX-ZZ-DR-A-0100 - Proposed Plans and
  - Drawing No. 2054-WRK-XX-ZZ-DR-A-0200 - Proposed Section Elevations.

- 7.2.4. The provision of a mews dwelling to the rear of the property has been the subject matter of two pre-planning consultations and applications. I agree with the applicant that the planning decision seems to contradict the advice given during the course of the consultations.
- 7.2.5. Having reviewed all of the information on file, and carried out a site inspection, I am of the opinion that the proposal as submitted to the planning authority in the first instance is more preferable and acceptable than that submitted with the appeal. Regard being had to residential amenity of No. 64 the host property and compliance with residential standards for 'Mews dwellings' and 'Backland Housing' (sections 15.13.5 and 15.13.4, respectively, of the Dublin City Development Plan 2022 – 2028) in terms of design, scale and layout, height, massing, roofs, access and day light and sunlight. It is my opinion that the subject development has been designed with due consideration of access and servicing and the interrelationship between overlooking, privacy, aspect and daylight / sunlight.
- 7.2.6. It is clear from development plan policy set out in the statutory Development Plan that DCC are in favour of backland and mews development where the opportunity exists. Dwellings in multiple occupancy are not excluded from being open to consideration for mews developments. There is precedent for mews development along Grosvenor Lane to the south of the subject site. The width, use and nature of the lane at the subject site is no different from the segment of the lane upon which permissions for mews developments have recently been permitted. While the depth of rear gardens along Grosvenor Square differs, the subject dwelling at No. 64 has a substantial depth of rear garden which has been subdivided by way of a timber panel fence.
- 7.2.7. Section 15.13.5 of the Plan set out in full in section 5.0 of this report states:  
"If the main house is in multiple occupancy, the amount of private open space remaining after the subdivision of the garden for a mews development shall meet both the private open space requirements for the main house divided into multiple dwellings and for mews development".
- 7.2.8. Section 15.9.7 Private Amenity Space states: "Private amenity space shall be provided in the form of terrace, balcony or private garden and should be located off

the main living area in the apartment. The minimum areas for private amenity are set out in Appendix 1 and Section 3.35 to 3.39 of the Sustainable Urban Housing: Design Standards for New Apartments (2020, as amended) for details”.

7.2.9. I note that the minimum private open space and communal open space requirement, set out in Appendix 1 and section 3.35 to 3.39 of the Design Standards for New Apartments, is 5 sq. m per one bedroom unit for private open space and 5 sq. m minimum for communal open space.

7.2.10. As set out above the initial scheme submitted to DCC proposed 76 sq. m of private open space including a 20 sq. m terrace to serve the host dwelling at No. 64 which is split into 7 one bedroom units and the new proposed one bedroom mews dwelling. The first party submits that in accordance with the minimum areas for private and communal amenity space, the total amenity area required to be provided is 8 No. one beds x 5sqm x 2 = 80sqm.

7.2.11. The first party suggest 54 sqm metres be allocated to the host dwelling and 20sqm to the proposed dwelling. That the deficiency of 4sqm can be off-set given the proposed flat green roof is also an amenity and provides a greater distance of separation for existing buildings and boundaries. The roof will be planted with an appropriate Green Roof, to encourage biodiversity in the city, attenuate rainwater run off and minimize the urban heat island effect.

7.2.12. I note for the attention of the Board that the City Development Plan (S15.13.4) sets out that applications for backland housing should consider the following:

- “Compliance with relevant residential design standards in relation to unit size, room size, private open space etc.
- Provision of adequate separation distances to ensure privacy is maintained and overlooking is minimised.
- That safe and secure access for car parking and service and maintenance vehicles is provided.
- The scale, form and massing of the existing properties and interrelationship with the proposed backland development.

- The impacts on the either the amenity of the existing properties in terms of daylight, sunlight, visual impact etc. or on the amenity obtained with the unit itself.
- The materials and finishes proposed with regard to existing character of the area.
- A proposed backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- A relaxation in rear garden length, may be acceptable, once sufficient open space provided to serve the proposed dwelling and the applicant can demonstrate that the proposed backland dwelling will not impact negatively on adjoining residential amenity.

All applications for infill developments will be assessed on a case by case basis.

In certain instances, Dublin City Council may permit relaxation of some standards to promote densification and urban consolidation in specific areas. The applicant must demonstrate high quality urban design and a comprehensive understanding of the site and the specific constraints to justify the proposal”.

7.2.13. With respect to private amenity space, it is notable that the advice given to the applicant at pre-planning stage states:

“The revised scheme proposes a communal amenity space of 76sq. m, shared between the new dwelling and the existing 7 no. apartments in the host building. It is stated that the owner of the existing building will live in the mews dwelling. The applicant should provide details of occupancy and layout of the existing building in order to determine the area of communal amenity space required. If communal amenity space were to be an acceptable solution in this case, it would have to be landscaped to a high quality and adequate defensible space provided to protect the privacy of occupiers”.

7.2.14. The applicant has provided details of the layout of the host dwelling, it is evident from the property price register that 7 apartments exist within No. 64 Grosvenor Square. As Apartments 1 – 7 64 Grosvenor Square Rathmines Dublin 6 were all sold on the

same day, that being 26.06.2018. It is submitted that no subdivision of the site is proposed as the owner/applicant intends to live in the new mews house, therefore private open space will be shared between the existing and new houses via the garden.

- 7.2.15. There appears to be a conflict whether the communal open space / private amenity space of 76 sq. m will be sub divided on the ground to serve the mews dwelling and the host dwelling, containing 7 individual one bedroom units, however, I am of the opinion that this matter can be dealt with by way of condition.
- 7.2.16. I note the multiple occupancy of the host dwelling at No. 64, and I have some reservation with respect to the individual sale of Apartments within the host dwelling, However this planning application is not proposing any amendment to the host dwelling and it is submitted it is in one ownership (this is not disputed) and the applicant proposes that the new mews dwelling will be in the same ownership.
- 7.2.17. The Board are empowered to insert pre- development conditions should they consider permission should be forthcoming, with regard to the provision of a boundary between the existing and proposed Mews and also if both properties should remain in one ownership.
- 7.2.18. Essentially, I have no issue with the quantum of open space proposed to serve the main host dwelling (54 sq. m) and the new proposed one bedroom mews dwelling (20 sq. m). I propose that a condition is attached requiring high quality landscaping and adequate defensible space provided to the host dwelling and to the mews to protect the privacy of occupiers. The subject site of this appeal is located in the inner-city suburbs, in close proximity to the City Centre and in proximity to a range of public spaces and amenities. I consider that a reasonable level of provision of amenity open space can be provided to serve the host and proposed dwelling.
- 7.2.19. Cognisance is had that students and young people don't necessarily want their own private gardens, or large living spaces, but are interested in what amenities are within walking distance of their dwelling. Cities need to attract young people who weren't necessarily looking at the jobs market, because they can work online, but



who are looking at the standard of living a city provides. Densification with regard to high standards and provision of quality accommodation within a short (approx. 5 /10 minute) walking distance of amenities, public transport, the city centre and employment areas is to be welcomed. The mews dwelling (47.4 sq. m) would exceed the required floor area for a 1 bedroom unit and is considered acceptable in terms of floor area, private open space / communal open space, aspect and natural light. The proposed new building will complement the character of both the mews lane and host building.

7.2.20. I note the precedent case at No. 80 Grosvenor Square (Reg. Ref. 5552/05) whereby permission was granted for the demolition of the existing shed to the rear of the property. The provision of a new two storey one bedroom mews house to Grosvenor Lane to the rear of the property including private outdoor space, off street car parking and all associated ground works. I also note the established precedent cases for mews development along Grosvenor Lane a similar width and character rear lane to the south of St. Clare's Avenue.

7.2.21. In conclusion to the foregoing, I consider that the proposed mews dwelling is acceptable will not negatively impact upon the host dwelling at No. 64 and should be granted planning permission. The scale and design of the proposed development will not have an adverse impact on the character of the Protected Structure and on the appearance of the surrounding residential conservation Area. The architectural conservation officer in her report is satisfied that the proposed dwelling conforms to the conservation principles within the curtilage of a protected structure and recommends planning permission is granted.

7.2.22. Overall, I am satisfied that proposed dwelling house is of a high quality and sensitive design that will create an aesthetic improvement to Grosvenor Lane / St. Clare's Avenue and does not compromise the historic character of the original house and site.

### **7.3. Residential Amenity and Visual Amenity of the area.**

7.3.1. The second reason for refusal considered that the proposal to site a part single, part two storey residential property in the rear garden of the existing dwelling is considered to seriously impact on the visual amenity of neighbouring properties given the limited separation distances between the new dwelling and the

neighbouring properties and is considered over-development of the site and contrary to the existing character of the area setting an undesirable precedent for other similar type developments.

- 7.3.2. I disagree with this reason for refusal. The PA planners report does not address the visual amenity of the area. Having reviewed the Architectural Planning report and Sunlight and Shadow Analysis Report submitted with the planning application I am of the opinion the proposed new building will complement the character of both the mews lane and host building. The proposed mews is subordinate in terms of height and scale to the host building.
- 7.3.3. Regard is had to the objection and submission on file from neighbouring property owners, in particular No. 63 Grosvenor Square. The amenity area of No. 63 Grosvenor was analysed and analysis found that 50% of the amenity area to its rear will continue to receive sunlight on 21<sup>st</sup> March in accordance with the above. No. 63 being the property most liable to be affected, it being located to the north.
- 7.3.4. No 63 Grosvenor Square will receive a reduction in sunlight to its rear amenity space as follows:
- 7.2m<sup>2</sup> on March 21<sup>st</sup> @09.00hrs
  - 8.7m<sup>2</sup> on March 21<sup>st</sup> @12.00hrs
  - 4.5m<sup>2</sup> on June 21<sup>st</sup> @ 09.00hrs and
  - 1.3m<sup>2</sup> on June 21<sup>st</sup> @12.00hrs.
- 7.3.5. I consider due cognisance has been had to the orientation of the site, with set back from the northern boundary with No. 63 at first floor level incorporated and the overall height of the dwelling having a maximum height of 5.67 m. I consider that the proposed dwelling would not, if permitted, have a negative impact in terms of overshadowing, overbearing or loss of sunlight or daylight such to negatively impact upon the residential amenity of adjoining properties or visual amenity of the area.
- 7.3.6. The new Development Plan retains the requirement for the provision of a 22m separation distance between opposing windows at first floor level. However, as there is no opposing windows proposed at first floor level within 22m of the window on the front of the proposed development, it can be considered that there is no loss of privacy and outlook.

7.3.7. The proposed Mews dwelling is designed to a high standard and integrates well with the site context, it will not be injurious to the visual and residential of neighbouring properties.

#### **7.4. Traffic and parking matters**

7.4.1. The third reason for refusal, see section 5.0 of this report above considers that the failure to provide a dedicated off-street car-parking space to serve the proposed mews dwelling would be contrary to Section 16.10.16 Mews Dwellings (g) of the Dublin City Development Plan 2016-2022. The development would lead to increased overspill parking within Grosvenor Lane/St. Clare's Avenue and obstruction of the laneway resulting in traffic safety hazards. The development would set an undesirable precedent for similar sites throughout the city.

7.4.2. The western boundary of the site bounds a rear service laneway, Grosvenor Lane, also known as St. Clare's Avenue, giving vehicular access to an existing semi-derelict 20th Century garage. Grosvenor Lane/St. Clare's Avenue is extensive in length, and it also serves the rear of houses along the northern side of Leinster Road. The laneway is taken in charge by Dublin City Council. The laneway is accessible from the south via Leinster Road and Grosvenor Square and to the north via Mount Drummond Avenue.

7.4.3. Grosvenor Lane varies in width from 4.75m to 4.8m. It is proposed to provide an extended width of 5.550m opposite the full 6.95m width of the site. The proposed development includes an area for waste storage and a bike stand, being car free it will not generate any vehicular movement along Grosvenor Lane. I note that the Transportation Department of the City Council did not recommend refusal, as cited in the planner's report. It recommends further information be requested with respect to in-curtilage car parking.

7.4.4. I highlight the following:

- The site is situated within easy walking and cycling distance to the city centre and is 550m South of the Grand Canal.
- The site is situated within 250m of major high-frequency public transport routes along both Rathmines Road and Harold's Cross Road.

- The host dwelling has 4No. on-street parking permits.
- On-site cycle and waste storage are included in the proposals.

7.4.5. I note the revised plans submitted with the appeal and it is my opinion that private open space and communal open space to serve the residential units is preferable to car parking in this instance. In light of the site's location, decreasing car ownership generally and a move toward sustainable mixed-mode transport, with higher density city living, I believe in the interests of common good that an onsite car parking garage would not be beneficial to the proposal.

7.4.6. The proposed development is for a car-free mews dwelling in the rear garden of an existing dwelling, facing onto an established mews laneway and located in an area served by two public transport corridors with a high frequency bus service and also located within an area with retail and numerous local services readily available. The proposed development will deliver a good quality residential unit in a sustainable location.

7.4.7. Section 15.13.5.4 'Access', of the statutory City Development Plan states:

"Parking provision in mews lanes, where provided, may be in off-street garages, forecourts or courtyards, subject to conservation and access criteria. Car free mews developments may be permitted in certain circumstances where there are specific site constraints and where alternative modes of transport are available. Each development will be assessed on a case by case basis. Potential mews laneways must provide adequate accessibility in terms of private vehicular movements, emergency vehicles and refuse vehicles. Where access cannot be provided, an access and movement strategy must be provided to justify that the development can be adequately served. See Appendix 5 for further details. All mews lanes will be considered to be shared surfaces, and footpaths need not necessarily be provided. Where historic materials exist, roof materials, stone, paving surfaces, windows, joinery, ironmongery etc. these should be retained in order to protect the special character of the original mews lanes".

7.4.8. The proposed Mews dwelling complies with the requirements of S 15.13.5.4 of the CDP 2022 – 2028. There is clear precedent in the area and within the city for Mews dwelling with no car parking included. The proposal will not, if permitted, give rise to

a traffic hazard or impact upon car parking in the locality to any material extent. Cognisance is had to the permit parking arrangement in operation. I recommend that the carparking free proposal as initially submitted to the PA be granted planning permission.

## **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## **8.0 Recommendation**

- 8.1.1. I recommend permission be GRANTED subject to conditions.

## **9.0 Reasons and Considerations**

- 9.1.1. Having regard to the Z2 zoning objective pertaining to the site and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity, would be acceptable from a visual amenity perspective and would generally be acceptable in terms of traffic safety and convenience. The proposed development will therefore be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1.	The development shall be carried out in accordance with the plans and particulars lodged with the application on the 28 <sup>th</sup> January 2022, 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
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	<p>shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>No additional development, normally exempted under Schedule 2, Article 6, Part 1 Exempted Development General (Development within the curtilage of a house) shall take place to the rear of the Mews dwelling or the host dwelling unless authorised by a further grant of planning permission.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
3.	<p>Prior to the commencement of development, the applicant shall submit a detailed landscaping plan indicating a party boundary between the open space (54sq. m) to serve the host dwelling and the open space to serve the proposed Mews dwelling (20 sq. m). The landscape plan shall include details of hard and soft landscaping, planting, and if any trees or plants dies or is otherwise lost within a period of 5 years, it shall be replaced by a plant of the same species variety and size within the planting season following such loss.</p> <p><b>Reason:</b> In the interest of residential and visual amenity,</p>
4.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of all intended construction practice for the development, including measures for protection of existing development and boundary walls, construction traffic routing and management, construction parking, materials storage, site compound, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
5.	<p>Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours</p>

	<p>to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
7.	<p>In advance of works commencing on site, the applicant shall submit the following information to the Planning Authority.</p> <ol style="list-style-type: none"> <li>1. A full drawing survey including photographic record of existing boundary walls and the existing rear wall shall be provided along with detailed information on the extant materials, coursing and joint details. The extant historic stones that are proposed to be removed from the rear boundary wall shall be reused within the scheme elsewhere on site, such as in the repair of the remaining historic boundary walls or in the construction of new walls. A detailed drawing shall be submitted identifying their reuse within the site. Detailed schedules of any repair and reinstatement works, to best conservation practice, that are required to the historic walls should be provided. A method statement for the raking out and re-pointing of the stonework and associated repair details are to be provided. Details of the historic stone coursing, sizes of stone as well as mortar colour are to be provided. Full details of all proposed new elements, such as toothing-in and repair work that shall be required. All new elements will match the historic walls.</li> <li>2. All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.</li> <li>3. The architectural detailing and materials in the new work shall be</li> </ol>

	<p>executed to the highest standards so as to complement the setting of the protected structure and the historic area.</p> <p><b>Reason:</b> To protect the character and integrity of the protected structure.</p>
8.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
9.	<p>The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
10.	<p>A plan containing details for the management of waste, 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.</p> <p><b>Reason:</b> To provide for the appropriate management of waste, especially recyclable materials, in the interest of protecting the environment.</p>
11.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the</p>



	<p>matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Fiona Fair  
Senior Planning Inspector

04.05.2023