



An
Bord
Pleanála

Inspector's Report

ABP-313663-22

Development	Demolition of the single storey retail shop, construction of a 3 storey (2 storey over basement level) - 2 bedroom plus study dwelling, access level to a roof terrace, boundary treatments to match existing adjacent and all associated site works adjacent to protected terrace of dwellings in an Architectural Conservation Area
Location	484A North Circular Road, Dublin 1, D01 RX59
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3491/22
Applicant(s)	Matthew Kelly
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Matthew Kelly
Observer(s)	None
Date of Site Inspection	30 th November 2023
Inspector	Joe Bonner

1.0 Site Location and Description

- 1.1. The site of the proposed development is located at the western end of a 110m long terrace of houses on the southern side of North Circular Road (NCR), c150m north of Mountjoy Square, c275m southeast of the junction of North Circular Road and Dorset Street.
- 1.2. The end of terrace site is 49sqm and currently accommodates a single storey flat roof building with a floor area of 17.9sqm and has a small hard surfaced parking area at the front. The sites western and south western boundaries are located immediately on the public road at Fitzgibbon Lane, which has no footpaths. The building most recently operated as a hair salon, but is now vacant.
- 1.3. Fitzgibbon Lane is 4.682m in width and provides vehicular access to Fitzgibbon Street flats, as well as to the rear of houses on the terrace, of which the site forms part, and to the rear of houses on Belvedere Place to the south of the lane.
- 1.4. The four houses adjacent houses on the terrace are two storey over semi-basement level, before rising to four storey over semi-basement level, then back down to three storey over semi-basement, then to two storey over semi-basement again towards the end of the terrace. The building line of the terrace is consistent, with all buildings set back c7.53 m from the edge of the public footpath with the exception of the existing building on the application site which is set back c6.3m and the ground floor covered seating area at the front of the Hogan Stand pub at the eastern end of the terrace, which extends to the edge of the public footpath.
- 1.5. A modern two storey apartment building with a setback third floor is built to the west on the immediately opposite side of Fitzgibbon Lane (c.2017), with an enclosed pedestrian access running along the side and a gated vehicular access available directly from the lane. Its building line including balconies extend to the edge of the public footpath on North Circular Road.
- 1.6. A recently constructed five and six storey apartment block with a ground floor Spar shop is located on the opposite side of the North Circular Road.

2.0 Proposed Development

- 2.1. The proposed development comprises permission for:

- the demolition of the existing single storey retail shop.
- the construction of a 3 storey (2 storey over basement level) - 2 bedroom plus study dwelling, access level to a roof terrace, new boundary treatments to match existing adjacent and all associated site works.

2.1.1. The public notices state that the site is located adjacent to a protected terrace of dwellings in an Architectural Conservation Area.

2.1.2. The application was accompanied by:

- A Shadow Study
- 3D Images
- Architectural Statement
- Development Standards Compliance Report

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 4th of May 2022, Dublin City Council decided to refuse permission for a single reason which stated:

- Having regard to the significant infringement of the front building line on North Circular Road at ground and first floor level, it is considered that the proposed new dwelling would be seriously injurious to the visual amenities of the area and to the character of the residential conservation area in which the site is located. The proposed development, in itself and in the precedent, it would set for developments of this type, would therefore be contrary to the provisions of the Dublin City Development Plan (2016-22) including the zoning objective Z2 – ‘to protect and/or improve the amenities of residential conservation areas’ and policies 16.10.9 and 16.10.10, and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The planning officer's report is the basis for the decision of the planning authority to refuse permission. Their report included the following comments:

- The site and the three immediately adjoining houses to the West are not protected structures although they are part of a residential conservation area, while existing houses further west on the terrace are protected structures. The site is not an architectural conservation area, but special care must be taken when dealing with development that affect structures, both protected and non-protected, in residential conservation areas.
- Reference is made to policy regarding corner / side garden sites and infill development.
- Houses are required to comply with the principles and standards from 'Quality Housing for Sustainable Communities' (2007).
- The floor area exceeds the minimum requirement for a two-bedroom house, although the layout is constrained by the nature of the site.
- There would be some shadow impact on east facing windows on the apartment building on the opposite side of Fitzgibbon Lane during mornings in spring and summer.
- The main issue of concern is the significant projection forward of the front building line on North Circular Road, in a residential conservation area, and while the apartment development on the opposite side of Fitzgibbon Lane also projects forward, that building line is separated from the terrace of houses and was in a position to establish a separate building line, whereas the proposed house is attached to the terrace.
- The development is different from the previous refusal for permission on the site by providing a setback of 0.5m from the building line at second floor level in addition to a revised internal layout. It is accepted that any attempt to reduce the projection forward of the front building line would likely result in a significant reduction in the floor area of the proposed house relative to that proposed.
- The reasons for refusal in the previous application have not been adequately addressed regarding the projecting building line and the subsequent visual impact on the existing residential conservation area remains a concern.

3.2.3. Other Technical Reports

- Drainage – Recommended a decision be delayed pending receipt of further information regarding separate foul and surface water systems; basement drainage, SUDS; and that elements of site drainage to be located within the final site boundary.
- Transportation – No objection to the non-provision of parking. Recommended a grant of permission subject to conditions.

3.3. **Prescribed Bodies**

- TII – The Luas Cross City supplementary Development Contribution applies.
- Submissions invited but not received from Irish Water, Irish Rail and the National Transport Authority (NTA).

3.4. **Third Party Observations**

- None

4.0 **Planning History**

4.1. Application site

4.1.1. The site was the subject of a pre-planning meeting, Social Housing Exemption Certificates and an application for a similar development in 2021.

4.1.2. **PAC 0015/21** – Pre-application consultation was carried out on 2nd March 2021 in respect of a proposed 1 bed apartment and coffee unit in steel containers. The following matters were addressed:

- Applicant was advised to explore the feasibility of a larger single family dwelling on the site, using traditional building materials and with rooftop private open space. and while there was scope to have a building line closer to the road than the existing building at number 484, the proposed layout with a building line 6m beyond the adjacent houses should be reconsidered.
- Address overlooking, overbearing impact and the potential loss of daylight and sunlight to the properties to the east and west, in particular.

- 4.1.3. **SHEC 0260/21** – Dublin City Council granted a Social Housing Certificate of Exemption on the 9th of August 2021.
- 4.1.4. **P.A. Ref. 3164/21** – Permission was refused to the current applicant on the 7th of September 2021 for a development of the same description as the current application.
- The proposed building line projected 3.502m forward of the existing building line on the terrace compared to 3.05m in the current application.
 - The first refusal reasons is identical to the first refusal reason in the current applicant, except that it did not reference policies 16.10.9 and 16.10.10 of the Dublin City Development Plan 2016-2022.
 - The second refusal reason stated that:

The proposed development, by reason of its constrained internal layout and failure to provide for living space in accordance with minimum requirements, would not provide for an acceptable standard of residential amenity to future occupiers, and would therefore be contrary to minimum standards and to the proper planning and sustainable development of the area.
- 4.1.5. **SHEC 0093/22** – Dublin City Council granted a Social Housing Certificate of Exemption on the 4th of April 2022.
- 4.1.6. **P.A. Ref. 4165/23** – On the 17th of July 2023, an application was submitted to Dublin City Council for the following development:
- Planning permission for extensions and alterations to the existing single storey retail shop to include ground floor extensions to the front, first floor extension over existing, alterations to the existing materials, fenestration and finishes to the entire building to match existing adjacent protected buildings and all associated site works adjacent to protected terrace of dwellings in an architectural conservation area.
- 4.1.7. The proposed development would have a total floor area of 29.9sqm and a front building line projecting 2.5m beyond the building line on the terrace at ground floor level and 1m at first floor level. The floor levels do not corresponds exactly with the proposed floor levels in the application subject to the current appeal.

4.1.8. A final grant of permission was issued on the 11th of December 2023.

Site to immediate west across Fitzgibbon Lane and fronting North Circular Road

4.1.9. **P.A. Ref 2400/17** – Permission granted on 25th October 2017 for demolition of a single storey shop, and the construction of a three storey development, comprising 3 apartments and parking accessed from Fitzgibbon Lane. This development is built and occupied.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

5.1.1. During the period when the application was under consideration by the Planning Authority and the decision to refused was issued, the relevant Development Plan was the Dublin City Development Plan 2016-2022, which has now been superceded by the Dublin City Development Plan 2022-2028.

5.2. Dublin City Development Plan 2022-2028

5.2.1. The relevant Development Plan is the Dublin City Development Plan 2022-2028, which came into effect on 14th December 2022.

5.2.2. The site land use zoning is the same as it was in the 2016-2022 Plan which is 'Z2' Residential Neighbourhoods (Conservation Areas) with a stated objective 'to protect and / or improve the amenities of residential conservation areas'. The principal land-use encouraged in residential conservation areas is housing.

5.2.3. Ten of the sixteen buildings in the centre of the terrace are protected structures, while the application site, the four houses to its immediate east and Hogan's pub at the eastern end of the terrace are not protected structures.

5.2.4. Mountjoy Square and surrounding streets are designated as an Architectural Conservation Area (ACA), but the designation does not extend to the terrace.

5.2.5. Section 15.15.2.2 'Conservation Areas' sets out the criteria that all planning applications for development in Conservation Areas shall comply with:

- Respect the existing setting and character of the surrounding area.

- Be cognisant and/ or complementary to the existing scale, building height and massing of the surrounding context.
- Protect the amenities of the surrounding properties and spaces.
- Provide for an assessment of the visual impact of the development in the surrounding context.
- Ensure materials and finishes are in keeping with the existing built environment.
- Positively contribute to the existing streetscape.

5.2.6. Policy BHA9 applies to development in Z2 'Conservation Areas' and provides that development within a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

5.2.7. Policy QHSN5 Urban Consolidation seeks 'To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development'.

5.2.8. Chapter 13 addressed 'Strategic Development Regeneration Areas' and the site of the proposed development is located within 'SDRA Northeast Inner City'. Figure 13-13 of the Development Plan identifies the extent of the area, and the Fitzgibbon Street flats to the east and south east of the site is identified as 'Area 5' about which the Plan states that any redevelopment of this existing flat complex should seek to restore the building line along road frontages to both Fitzgibbon Street and North Circular Road. It also states that a strong edge should also be presented to Fitzgibbon Lane to help to activate and enliven the laneway.

5.2.9. Chapter 15.13.3 'Infill /Side Garden Housing Developments' includes a set of criteria to which regard will be had in assessing application for development and states that:

In general, infill housing should comply with all relevant development plan standards for residential development including unit sizes, dual aspect requirements, internal amenity standards and open space requirements. In certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land is developed.

5.2.10. Section 15.11.1 refers to Floor Areas and states that:

Houses shall comply with the principles and standards outlined in Section 5.3: 'Internal Layout and Space Provision' contained in the DEHLG 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007).

5.3. Supplementary Development Contribution Scheme

5.3.1. The site lies within the boundary of the Luas Cross City (St. Stephen's Green to Broombridge Line) Section 49 Supplementary Development Contribution Scheme Area.

5.4. Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024)

5.4.1. The standards and SPPR's in the Guidelines are relevant in the context of the external environment in matters such as parking and private open space.

5.5. Natural Heritage Designations

5.5.1. The nearest European sites to the appeal site are South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) approximately 1.85km to the east and South Dublin Bay SAC (site Code: 000210) approximately 3.95km to the southeast.

5.6. EIA Screening

5.6.1. See completed Form 1 and Form 2 in Appendix 1.

5.6.2. Having regard to the limited nature and scale of the proposed development in a serviced urban area and the absence of any connectivity to any sensitive location, I have concluded at preliminary examination stage that there is no real likelihood of significant effects on the environment arising from the proposed development having regard to the criteria set out in Schedule 7 to the Planning and Development Regulations 2001 (as amended). The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The first party grounds of appeal address the reason for refusal by breaking it down into three separate elements and responding to each in turn as follows:

6.2. Part 1 of refusal reason

6.2.1. Having regard to the significant infringement of the front building line on North Circular Road at ground and first floor level, it is considered that the proposed new dwelling would be seriously injurious to the visual amenities of the area and to the character of the residential conservation area in which the site is located.

Applicant's Response

Dublin City Council indicated that there was scope to provide a building line that stepped closer to the road than the existing building line.

- The existing ground floor building line is 1.42m forward of the existing terrace and the terrace on the opposite side of Fitzgibbon Lane projects 7.42m forward of the terrace.
- The proposed projection of 3.05m would be consistent with the stepped building line arrangement on the street, that moves closer to the street in a northern direction.
- The proposed projection only extends as far as is necessary in order to provide a residential dwelling on the site.
- The multiple changes in height of the buildings on the terrace means that it does not read as a continuous structure.
- The recommendations of the pre-planning consultation were taken on board in terms of the rooftop open space and material finishes.
- The changeability in scale and form of buildings around the site and their projections vertically and forward of building lines, would mean the introduction of the proposed dwelling would be in keeping with the character of buildings within the local conservation area, filling in a void space in the streetscape that would enhance and not be seriously injurious to the visual amenities of the area.

Part 2 of refusal reason

- 6.2.2. The proposed development, in itself and in the precedent it would set for developments of this type, would therefore be contrary to the provisions of the Dublin City Development Plan (2016-22) including the zoning objective Z2 – ‘to protect and/or improve the amenities of residential conservation areas’.

Applicant's Response

- The existing building presents as a rundown, poorly utilised site and due to its scale, it reads as a void space in the elevational streetscape.
- To make this site valuable for domestic use any new building must project forward of the existing building line as was agreed in principle in the pre-planning consultation.

6.3. Part 3 of refusal reason

- 6.3.1. Policies 16.10.9 and 16.10.10, and to the proper planning and sustainable development of the area.

Applicant's Response

- Policy 16.10.9 relates to ‘Side Garden’ sites which form part of a larger site and reference to this section is considered irrelevant.
- Section 16.10.10 ‘Infill Housing’ is considered more relevant and notes that in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed.
- The design meets the requirements of all development guidelines, and the scale, massing and materiality ties in with the dwellings in the local area.
- The proposed building meets all of the following criteria – have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.
- It complies with the appropriate minimum habitable room sizes.
- A safe means of access and egress from the site is available that would not result in the creation of a traffic hazard.

- In terms of sustainable development, the proposed building could not be contrary to the aims of the development plan, including adaptive reuse, intensification at the right scale of inner-city lands, reduce urban sprawl, replacing over reliance on cars with walking, cycling and public transport viable alternatives.
- This sympathetic and fitting design should be granted permission.

Other documents submitted with appeal

6.3.2. The 'Architectural Statement' and the 'Development Standards Compliance Report', which had previously been submitted with the planning application, were included.

- The Architectural Statement provided a justification for the new building and described the proposed finishes.
- The Development Standards Compliance Report emphasised that the existing site is underutilised and in poor condition and has a negative visual impact on adjoining architecturally sensitive buildings. The proposal will complement and enhance its surroundings and the streetscape. The building will be clearly distinguishable as a modern building in the historically architecturally sensitive streetscape.

6.4. Planning Authority Response

6.4.1. The Planning Authority requested that the Board uphold its decision to refuse permission, but that if permission is granted that conditions be attached in respect of:

- A Section 48 development contributions
- A Section 49 Luas Cross City development contribution
- Bond / Taking in Charge
- A development contribution in lieu of the open space requirement not being met.

6.5. Observations

- None

6.6. Further Responses

- None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the information received in relation to the appeal, having inspected the site, and having regard to relevant local planning policies, I am satisfied that the main issues in this appeal can be dealt with under the following headings:

- Principle of Development
- Drawings
- Type of House and Floor Area
- Comparison with previous application and inconsistencies in depth of adjacent building
- Recently Permitted Development - P.A. Ref. 4165/23
- Side / Corner Gardens
- Building line and impact on Character of Streetscape
- Shadow Study
- Parking
- Private Open Space
- Drainage
- Supplementary Development Contributions
- New issues - Excavation / Foundations and Section Errors
- Appropriate Assessment
- Conclusion

7.2. Principle of Development

7.2.1. The public notices refer to the site being located adjacent to a protected terrace of dwellings in an architectural conservation area. This description is incorrect as the

proposed development is not located within an architectural conservation area but is located within a residential conservation area which has a Z2 zoning in the Dublin City Development Plan. I am satisfied that the principle of residential development on this site is acceptable, subject to a number of other considerations.

7.3. Drawings

- 7.3.1. During the preparation of this report it was noted that the application drawings provided to the board, by the Planning Authority, did not correspond with the comments made in the planning officer's report in respect of the proposed layout and proposed function of particular rooms. This was addressed by way of a Section 132 request and the correct application drawings were received by the board on the 30th of January 2024.
- 7.3.2. It is noted that the sections through the building do not correspond with the submitted floor plans.

7.4. Type of House and Floor Area

- 7.4.1. Section 15.11.1 of the Dublin City Development Plan 2022-2028 requires that houses shall comply with the principles and standards outlined in Section 5.3: 'Internal Layout and Space Provision' contained in the DEHLG 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007). (hereafter Guidelines).

House Type

- 7.4.2. In the evaluation of the proposed development, the planning officer referred to the dwelling as a two-bedroom four-person dwelling and noted that while at 81sqm, it exceeded the minimum floor area requirement of 80sqm, the aggregate living/dining/kitchen area at 29.9sqm was marginally below the minimum requirement of 30sqm for such spaces.
- 7.4.3. The proposed house does not conform to any of the unit types provided in Table 5.1 of Section 5.3 of the Guidelines, as it would be laid out over four floors, rather than one or two floors as provided for in the guidelines. The unusual floor plan layout suggest that this could be a case where the board may apply the provisions of Chapter 15.13.3 of the development plan where the normal planning standards may be relaxed to ensure that underutilised land is developed.

- 7.4.4. Section 5.3 of the Guidelines provides that a double bedroom must be at least 11.4sqm and as one of the proposed bedrooms is 11.3sqm, it must be classed as a single bedroom. The house would therefore be a two-bedroom, three-person house, which would have a target floor area of 70sqm, a main living room requirement of 13sqm, aggregate living area of 28sqm and aggregate bedroom area of 20sqm.
- 7.4.5. The grounds of appeal state that the building meets the appropriate minimum habitable room size criteria, and I will examine this below, in the context that the proposal consists of a two-bedroom, three-person house rather than a two-bedroom, four-person house.

Layout of Lower and Upper Ground Floor Levels

- 7.4.6. The lower ground floor layout submitted with the application provided for a study and a double en-suite bedroom, with under stairs storage. The upper ground floor consisted of an 11.3sqm single occupancy bedroom, a bathroom and the main entrance and landing area.

Layout of First Floor and Terrace Access Plan

- 7.4.7. The applicant's development standards compliance report included a section titled Quality Housing for Sustainable Communities and indicated that the aggregated living area requirement was 30 square metres and that the proposed house provided 35sqm. The planning officer's assessment indicated that the requirement was 30sqm and that only 29.2sqm had been provided. Both references relate to a two bedroom four-person house, which I am satisfied that the proposed development is not.
- 7.4.8. It is proposed that the kitchen/living area and a store with stated floor areas of 21sqm and 2.4sqm respectively, would be located at first floor level, while the dining area with a stated floor area of 7.2sqm would be located at second floor level. The aggregate floor areas of the kitchen/living/dining area would be 28.2sqm, which is 0.2sqm above the minimum aggregate requirement for a two-bedroom three person house. However, this calculation includes those parts of the floor that consist of stairs and landings and areas beneath the stairs.
- 7.4.9. While I note that the planning authority did not refuse permission on the basis that the internal layout is not compliant with the minimum floor area sizes, having

examined the floor plans, I am satisfied that the proposed layout would falls well; short to the minimum requirements, for the following reasons:

- When those areas taken up by stairs at both the first and terrace levels are removed, the net floor area for the kitchen/ living / dining area, over the two floors would be c22.5sqm, which is 5.5sqm or c20% below the minimum requirement of 28sqm for a 2-bed three-person house.
- The width of the passage at the top of the stairs at the terrace access level, which would serve as the dining room is shown to be only c0.5m in width. This dimension is below the effective clear width required by Part M of the building regulations, which, while a separate code to planning, is referenced in Section 5.5.1 Access of the DEHLG 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007) and the board must have regard to this in assessing this appeal, in respect of the quality of internal amenity for future residents.
- The proposed section shows that the floor to floor height between the first floor and terrace access level is 3.15m and the difference between the landing and upper level in proposed section A-A indicates that each step rise would be 210mm. That means that 14 steps would be required to provide access between the two floors. Only 12 steps are shown on the floor plans in drawing AP051 meaning that two additional steps would be required, which would require reconfiguration or relocation of the stairs, in addition to the amendments that would be required to facilitate adequate movement at the top of the stairs as described in the previous paragraph, which would likely result in a reduction in the functional floor area available at first floor level.
- While the access level dining area is stated to be 7.2sqm, no account has been give to the head room required for the stairs and the actual floor area available would be less than stated and shown on the terrace access level floor plan.

7.4.10. On the basis of the above, and notwithstanding the constraints that the sites configuration presents, I am satisfied that the proposed layout would not provide an acceptable level of internal amenity for residents of a two-bedroom three-person house on this site and I am also satisfied this application is not a case where it would be appropriate for the board to relax the normal planning standards as provided for

in Chapter 15.13.3 'Infill/Side Garden Housing Developments' of the Dublin City Development Plan 2022-2028 and for those reason I would recommend a refusal of permission.

7.5. Comparison with previous application and inconsistencies in depth of adjacent building

- 7.5.1. I have compared the proposed site layout plan against the proposed site layout plan of P.A. Ref. 3164/21, which is contained on the history documents received from the Planning Authority, and I note that while the footprint of the proposed building in each application is identical, in P.A. Ref. 3164/21, the proposed front building line at upper ground and first floor levels was stated to be 3.502m forward of the established building line on the terrace, whereas in the current application the proposed building line is stated to be 3.050m forward of the established building line, representing a reduction in the depth of the proposed building by 0.452m. I am satisfied that both drawings are the same and have the same preparation date.
- 7.5.2. I have also compared the existing Site Plan in Drawing AP020 and the existing West Elevation and Section A-A Drawing AP120 against the proposed floor plans, elevations and sections and I note that the width of the abutting building on the terrace is inconsistent between the drawings in that it appears to be wider in the proposed floor plans than in the site existing plans.
- 7.5.3. Due to the shape of the site, the rear part of the building is a fixed point against which all other dimensions can be measures, and I am satisfied that the building line of the adjacent terrace to which the proposed development forms the western end, has been moved forward to reduce the projection of the proposed building from 3.502m to 3.05m (an reduction of 452mm), and the size of the proposed building has not been reduced from that previously refused under P.A. Ref. 3164/21.
- 7.5.4. I am therefore satisfied, notwithstanding the change in dimensions stated on the application drawings, relative to dimensions stated in the previous application P.A. Ref. 3164/21, that the significant infringement of the front building line on North Circular Road at ground and first floor level that was the basis for the first reason for refusal in 3164/21, and has been restated by the planning authority in this application, has not been satisfactorily addressed in this application.

7.6. Recently Permitted Development - P.A. Ref. 4165/23

- 7.6.1. Permission was granted on the 11th of December 2023 for extensions and alterations to the existing building on the site, including a new first floor extension which would increase the floor area to 29.4sqm to facilitate retail use. The material finishes and windows would match those of the adjacent protected buildings.
- 7.6.2. The key issue for this application is that the building line has been permitted to project 2.5m beyond the building line on the terrace at ground floor level and 1m at first floor level. The permitted ground floor level corresponds with approximately half of the proposed semi-basement and half of the proposed ground floor level, while the permitted floor corresponds with half of the proposed ground floor and half of the proposed first floor level as the permitted floor levels are different to the other houses on the terrace.
- 7.6.3. While this permitted development is different to the one currently under consideration, and each application must be considered on its merits, these permitted building lines will be considered in the context of the proposed building lines (see section 7.8).

7.7. Side / Corner Gardens

- 7.7.1. While the planning officer's report addressed the policies of the previous development plan in respect of corner/ side gardens and infill developments as two separate categories, and the applicant does not agree that the site is a side garden, the policy context of the current development plan does not differentiate between these two types of development site.
- 7.7.2. Section 15.13.3 of the Development Plan 2022-2028 sets out twelve issues that must be considered when assessing proposals for side/corner garden sites.
- 7.7.3. While I consider that the proposed development would be satisfactory in respect of proportion, height, parapet levels, material finishes, impact on adjoining residential amenity, private open space, access and egress, boundary treatment, I am also satisfied that the proposed development is not consistent with the accommodation standard requirements for occupiers while adherence to the established building line was reference in section 7.5 above and is considered further in 7.8 below.

7.8. Building line and impact on Character of Streetscape

Lower Ground floor

- 7.8.1. The proposed building line of the lower ground floor level would extend 5.3 meters from the main building line on the terrace. The lower ground floor level would be below street level and would have the same floor level as the adjacent houses. The proposed houses have similar projecting entrance steps and raised platforms above their lower ground levels as well as having boundary walls and mature hedging in some instances extending to the footpath reducing or eliminating any views of the lower ground floor levels and I am satisfied that the lower ground floor level as proposed, would be acceptable.

Upper Ground Floor and First Floor

- 7.8.2. According to the application drawings, the upper ground floor and first floors would extend 3.05m forward of the existing established building line on the terrace and I have addressed this matter in detail in Section 7.5 above.
- 7.8.3. When the apartment block on the opposite side of Fitzgibbon Lane, to the immediate west of the site, is viewed from the eastern approach on both sides of North Circular Road, it appears to form a bookend to the terrace, although it is finished in pale yellow brick, that is not found on any of the buildings in the terrace. The key difference between the existing apartment development and the development proposed in this application is that the proposed application site would form the physical end of the terrace. It is noted that the two buildings at the eastern end of the terraced extend out to the street at ground floor level to form part of the Hogan's Stand pub, while the Development Plan has made provision for the redevelopment of the Fitzgibbon Street flats which would create a new building line along North Circular Road, which may or may not extend out to the footpath adjacent to the eastern end of the terrace. I am satisfied that a building line on this site, projecting forward of the existing terrace would not be out of character with the streetscape, but the proposed building line that would project 3.05m (or possibly 3.502m) ahead of the existing building line would be out of character and would be unacceptable.
- 7.8.4. When approaching the site from the west, the adjacent apartment block that extends to the edge of the public footpath restricts views of the site until you are immediately adjacent to the access to Fitzgibbon Lane, and I am satisfied that the proposed

development would have not significant impact on the character of the terrace when viewed from this angle.

7.9. The existing building on the site projects 1.67m forward from the building line of the terrace at ground floor level, while planning permission was granted in December 2023 to extend the building line 2.5m forward of the existing building line at ground level and by 1m at first floor level and those projections are considered acceptable and more appropriate than what is proposed in the current application, notwithstanding the presence of the projecting apartment building on the other side of the terrace. Considering that the proposed development would constitute a two-bedroom three-person house rather than a four person house due to the size of the bedrooms, the footprint of the building could be reduced so that the overall footprint did not exceed 70sqm, 11sqm smaller than what is proposed. However, due to the configuration of building and inconsistencies in the floor plans, which were addressed in paragraph 7.4.9 above, if the board were minded to grant permission, I do not consider that it would be appropriate for the board to seek a redesign of the development by way of a condition attached to a grant of permission.

7.10. **Shadow Study**

7.11. The applicant submitted a diagrammatical shadow study that is dated May 2021. The same study was also submitted in respect of a previous application P.A. Ref. 3164/21, and it has not revised to reflect the proposed change in building line from 3.502m to 3.05m forwards of the terrace at upper ground and first floor levels and does not show the access level to the roof terrace setback from the parapet. Therefore, I consider that the shadow study is not relevant to the proposed development and potential impacts on daylight or sunlight of the apartments on the western side of Fitzgibbon Lane cannot be determined.

7.12. **Parking**

It is not proposed to provide any parking as part of the development and I am satisfied that this proposal is acceptable and would be consistent with SPPR 3 - Car Parking of the 'Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities, which states that in urban neighbourhoods such as this site, car-parking provision should be minimised, substantially reduced or wholly eliminated.

7.13. Private Open Space

7.13.1. It is proposed that a roof garden of 14 square metres would be provided, and the planning authority did not raise any concerns in respect thereof.

SPPR 2 - Minimum Private Open Space Standards for Houses from 'Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities requires that new 2 bed houses have a minimum of 30sqm of private open space, but continues by stating that for sites or urban infill schemes on smaller sites up to 0.25ha the private open space standard may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and proximity to public open space.

I am satisfied, taking the physical constraints of the site into consideration and the proximity of the site to publicly accessible open space at Mountjoy Square, that the level of private open space proposed would be acceptable for this site.

7.14. Drainage

7.14.1. The issues raised in the report of the drainage department of Dublin City Council are typical of those which are conditioned into grants of permission, and I am satisfied that these matters would not constitute grounds not to grant permission and could be addressed by way of a condition if the Board is minded to grant permission.

7.15. Supplementary Development Contributions

7.15.1. The site lies within the boundary of the Luas Cross City (St. Stephen's Green to Broombridge Line) Section 49 Supplementary Development Contribution Scheme Area. If the board is minded to grant permission a condition can be attached in respect of this scheme.

7.16. New issues – Excavation / Foundations

7.16.1. The floor level of the existing single storey building is at surface level. The proposed lower ground floor level would have a depth of 1.35m below the current ground level, while the floor slab would have a depth of 0.25m, and the ground would be required to be excavate to a deeper level to prepare for the laying of the foundations. All of this would involve excavating the ground level immediately on the boundary of the public road to a depth of at least 1.6m.

- 7.16.2. No details have been provided of how it is proposed to secure the stability of the public road or piped services in the public road during the excavation or construction periods and no detail have been provided of the nature and extent of the proposed foundations such as whether they will encroach beneath the public road or whether they will be contained entirely within the red lined site boundary.
- 7.16.3. If the board is minded to refuse permission it may wish to advise the applicant that in the absence of details regarding the nature and type of foundations proposed to be used and details of how it is intended to construct the building immediately abutting a public road that is used by as a means of access to adjacent residential properties that the board cannot be satisfied that integrity of the public road and safety of users of the public road at Fitzgibbon Lane can be guaranteed.

7.17. Appropriate Assessment

- 7.17.1. 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 distance to the nearest designated European Site, and the absence of any 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.

7.18. Conclusion

- 7.18.1. I consider that the site is suitable for the development of a residential unit, however a balance needs to be found between the desire to redevelop the site for residential use and protecting the amenities of the future occupants of the house. Having considered all of the relevant issues, I have concluded that the proposed development falls well below the minimum standard that is a requirement of the development plan policy that these minimum standards be met, and the proposed development would not provide an adequate level of internal amenity for future residents and for that reason

8.0 Recommendation

- 8.1. I recommend that permission for the proposed development should be refused.

9.0 Reasons and Considerations

- 1 The proposed development, by reason of the configuration and layout of the proposed kitchen/living/dining areas, fails to comply with the minimum floor plan recommended in Section 5.3 of the 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007). Consequently the proposed development would be contrary to the requirement of Sections 15.11.1 and 15.13.3 of the Dublin City Development Plan 2022-2028 and would also fail to provide an adequate level of internal accommodation for occupiers. The proposed development would, therefore, seriously injure the amenities of the future occupants of the house and would be contrary to the proper planning and sustainable development of the area.
- 2 The proposed development, by reason of the proposed building line at upper ground floor and first floor levels, which would project significantly forward of the established building line on the terrace that the site forms part of, would constitute a visually discordant feature that would be detrimental to the character of the terrace, contrary to the provisions of Section 15.15.2.2 of the Dublin City Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Joe Bonner
Senior Planning Inspector

1st February 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-313663-22		
Proposed Development Summary	Demolition of the single storey retail shop, construction of a 3 storey (2 storey over basement level) - 2 bedroom plus study dwelling, access level to a roof terrace, boundary treatments to match existing adjacent and all associated site works adjacent to protected terrace of dwellings in an Architectural Conservation Area		
Development Address	484A North Circular Road, Dublin 1		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	
			No EIAR or Preliminary Examination required
Yes	X	Class 10(b)(i) of Part 2: threshold 500 dwelling units	Part of the development
			Proceed to Q.4

			consists of a guest apartment.	
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4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	313663-22	
Proposed Development Summary	Demolition of the single storey retail shop, construction of a 3 storey (2 storey over basement level) - 2 bedroom plus study dwelling, access level to a roof terrace, boundary treatments to match existing adjacent and all associated site works adjacent to protected terrace of dwellings in an Architectural Conservation Area	
Development Address	484A North Circular Road, Dublin 1	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The subject development comprises the demolition of a single storey building and the construction of a single three storey house in an area characterised by residential development. In this way, the proposed development would not be exceptional in the context of the existing environment.</p> <p>During the construction phase the proposed development would generate waste during demolition, excavation and construction. However, given the moderate size of the proposed building I do not consider that the level of waste generated would be significant in the local, regional or national context. No significant waste, emissions or pollutants would arise during the construction or operational phase due to the limited size of the site and the nature of the proposed use.</p>	<p>No</p> <p>No</p>
Size of the Development		

<p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The proposed development would consist of a single building accommodating a residential unit at semi basement, ground and first floor levels and is not considered exceptional in size in the context of the surrounding residential buildings.</p> <p>Owing to the serviced urban nature of the site and the infill character of the development, I consider that there is no real likelihood of significant cumulative impacts having regard to other existing and/or permitted projects in the adjoining area.</p>	<p>No</p> <p>No</p>
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The application site is not located in or immediately adjacent to any European site. The closest sites are South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) approximately 1.85km to the east and South Dublin Bay SAC (site Code: 000210) approximately 3.95km to the southeast.</p> <p>There are no waterbodies or ecological sensitive sites in the vicinity of the site. The site is located within a serviced urban area and the site will be connected to public surface and foul sewers. I do not consider that there is potential for the proposed development to significantly affect other significant environmental sensitivities in the area.</p>	<p>No</p> <p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)