



An
Bord
Pleanála

Inspector's Report

ABP-314183-22

Development	Demolition of single-storey building and construction of 7 residential units.
Location	8A Henrietta Lane, Dublin 1.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3224/22
Applicant(s)	Easy Living Developments Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Easy Living Developments Ltd.
Observer(s)	None
Date of Site Inspection	27 th April 2023.
Inspector	Michael Dillon

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.02ha, is located on the southern side of Henrietta Lane – a cul de sac mews laneway, serving the rear of properties on Henrietta Street, Bolton Street and Dominick Street Upper. The Lane is 4.5m wide in the vicinity of the site – widening out to approximately 6.0m to the east of the site. There are no footpaths; public lighting is in place. There are double yellow lines on the opposite side of the Lane. Facing the site (the rear of property on Dominick Street) is a seven-storey, red-brick block of student accommodation – with associated single-storey electricity sub-station – on the roof of which is a terrace garden.
- 1.2. There is a disused garage/workshop on the site – constructed of concrete blocks. The pitched roof, of green corrugated iron, has a ridge height of approximately 6.0m. The building juts out into the laneway. It has vehicular entrance doors on a chamfered corner; and a separate pedestrian doorway. To the rear of the building, there is a small, lean-to, single-storey, classroom building and an outdoor play area; associated with the pre-school community uses within the convent buildings at 8-10 Henrietta Street. This play area has a boundary wall 2.4m high on the play area side – and is slightly above the level of the appeal site – 1.5-2.0m. Half of the play area is covered with an open-sided structure, with mono-pitch roof: for shelter. Between this play area and the rear of 8 Henrietta Street is a plastic-grass football play area. To the west, the site abuts a three-storey community training building, associated with the aforementioned convent on Henrietta Street – to the rear of no.s 9 & 10. This plastered & painted building presents a blank gable elevation to the appeal site. It has industrial-style, pressed metal, offset A-roofs. It has vehicular access to Henrietta Lane, with cars parked in the vicinity on the date of site inspection – both within the curtilage and on the Lane. There is a landscaped courtyard between this community training building and the old convent buildings on Henrietta Street. To the east, the site abuts a single-storey, derelict shed, at 7 Henrietta Lane.

2.0 Proposed Development

- 2.1. Permission sought on 7th February 2022, for demolition of disused, single-storey building (175sq.m) and construction of a four-storey building (501sq.m) containing 7 residential units – comprising 4 studios, 2 one-bedroom apartments, and 1 two-

bedroom duplex unit. The development has associated bin and bicycle stores. Connection is to be made to public watermains and sewers.

2.1.1. The application was accompanied by the following documentation of note-

- Architectural Heritage Impact Assessment – December 2021.
- Design Statement – February 2022.
- Drainage Design Report – January 2022.
- Pre-Connection Enquiry (PCE) form, for Irish Water.

2.2. Following a request for additional information, revised proposals were received on 16th June 2022, as follows-

- Reconfiguration of units within the development – 6 in total – consisting of 1 studio, 3 one-bedroom and 2 two-bedroom units
- Altered dormer roof profile, external finishes, building line on Henrietta Lane, and building line addressing rear of 8 Henrietta Street.
- Removal of lift and reconfiguration of stair-core, bicycle store and bin store.
- Details of drainage and water supply.

2.2.1. The response was accompanied by the following documentation of note-

- Conservation Architect Report – June 2022.
- Outline Construction Management Plan & Waste Management Plan – undated.
- Mobility Management Plan – March 2022.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 13th July 2022, Dublin City Council issued a Notification of decision to refuse permission for two reasons as follows-

1. Site is within the curtilage of a Protected Structure, which in turn is within a conservation area. Development would be contrary to Policy CHC2 of the

Plan which provides protection for the curtilage of protected structures and would be seriously injurious to the visual amenities of the area.

2. Bedroom windows in the rear elevation would result in overlooking of the site to the southwest – with inadequate separation distance from the site boundary. Obscure glazing on bedroom windows is not acceptable as the sole source of light. Development would be seriously injurious to the amenities and future development potential of the adjoining site.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Report, of 1st April 2022, summarises the internal and external reports to the planning authority and also summarises an objection to the proposal. Additional information is recommended.

Report, of 13th July 2022, acknowledged some of the alterations made are considered to be improvements, but others had raised further design problems – particularly in relation to obscured glazing on the rear of the building and impact on the property to the rear and its future development potential. Refusal of permission is recommended.

3.2.2. Other Technical Reports

Engineering Department – Drainage Division: Report, of 17th February 2022, raised no objection, subject to conditions being attached to any grant of permission.

Transportation Planning Division: Report, of 14th March 2022, indicates that the site is considered 'central' with good Luas and bus links. It is within easy walking distance of facilities. Henrietta Lane is taken-in-charge. Parking restrictions are in place on the Lane. Further information is required in relation to ground floor privacy on the Lane. Parking is not required for this development. 10 bicycle parking spaces are provided – but more information is needed. A Construction Management Plan should be submitted.

Archaeology Section: Report, dated 21st March 2022, indicates that the site is on the border of the zone of archaeological constraint associated with Dublin City (Recorded Monument DU018-020). It is considered that late 18th Century remains of

development associated with 8 Henrietta Street are likely to survive at subsurface level within the proposed site – as depicted on John Roque’s map of Dublin from 1756. It is recommended that a condition relating to archaeological assessment prior to commencement of construction be attached to any grant of permission.

Architectural Conservation Section: Report, dated 28th March 2022, indicates that residential use is supported on this site. However, the scale and design of the proposal is not acceptable, and the applicant is referred to the Henrietta Lane Study, undertaken by Shaffrey Associates (commissioned by DCC). Details of existing boundary walls are required.

Transportation Planning Division: Report, of 29th June 2022, indicates no objection – subject to conditions relating to the bicycle-parking, demolition management plan, construction management plan, works on public roads and the mobility management plan.

Architectural Conservation Section: Report, of 13th July 2022, notes that a Conservation Architect has carried out survey work on original boundary walls – and outline methodology for dealing with these walls was acceptable. Revised design proposals have created further design issues, and clarification of additional information is requested – in particular, to reduce the height of the building to three storeys.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland: Report, of 3rd March 2022, indicated no comment to make. A section 49 contribution for Light Rail should be attached to any grant of permission.

3.4. **Third Party Observations**

There was one observation on the application from the Daughters of Charity Community Services – operating an ‘Early Years’ service for children and training centre for young adults from 9 Henrietta Street and buildings to the rear. 8A Henrietta Lane is directly adjacent to a Community Training Centre, which provides education for young adults aged 16-21 years. There is an outdoor play area for 44 children immediately to the rear of 8A, which will be overlooked by the development.

The development will overshadow no. 9 and obstruct light and sunlight – particularly to the outdoor play area. There are health concerns for staff and participants during the construction phase. Construction traffic will block Henrietta Lane – restricting access to workshops at 9A.

4.0 Planning History

Ref. 2475/08: Permission granted by DCC to demolish workshop and erect a five-storey-over basement mixed-use residential/office building with 2 car-parking spaces on this site. On appeal to the Board (**PL29N.232652**) by a 3rd Party, permission was refused on 28th August 2009, on grounds of height and massing of building relative to a Protected Structure at 8 Henrietta Street.

Ref. 3570/20: Permission granted for three/four-storey apartment building at 3 Henrietta Lane (a corner mews site) to the east. On appeal to the Board (**ABP-311064-21**) by 3rd Parties, permission was granted on 11th April 2022. There is no development to date on foot of this permission.

5.0 Policy Context

5.1. National Guidance

5.1.1. National Planning Framework: The NPF is the Government’s high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element is a commitment towards ‘compact growth’, which focuses on a more efficient use of land and resources through re-using previously developed or under-utilised land and buildings. It contains a number of policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3(b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 6 aims to regenerate cities with increased housing and employment.
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.

- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car-parking.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale, relative to location.

5.1.2. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2022): Set out the design parameters for apartments including locational consideration, apartment mix, internal dimensions and space, aspect, circulation, external amenity space, and car-parking.

5.1.3. Architectural Heritage Protection – Guidelines for Planning Authorities, 2004, (Revised 2011): Set out detailed guidance to support planning authorities in their role to protect architectural heritage when a Protected Structure, a proposed Protected Structure or the exterior of a building within an Architectural Conservation Area (ACA) is the subject of development proposals. It also gives guidance to those carrying out works that would impact on such structures.

5.1.4. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009): Set out the key planning principles which should guide the assessment of planning applications for development in urban areas.

5.2. **Development Plan**

The relevant document is the Dublin City Development Plan 2022-2028.

- The site is zoned 'Z1' – Sustainable Residential Neighbourhoods – 'To protect, provide and improve residential amenities'. Henrietta Street to the south and part of the rear garden curtilages of those houses (together with the King's Inns) are zoned 'Z8' – Georgian Conservation Areas – 'To protect the existing architectural and civic design character, and to allow for limited expansion consistent with the conservation objective'.
- No. 8 Henrietta Street is a Protected Structure (RPS: 3655). The appeal site would, at one time, have formed part of the curtilage of this property. No. 8 is now in use as a convent – together with no.s 9 & 10 – with community and education uses within the buildings. No. 8 Henrietta Street is included in the

National Inventory of Architectural Heritage (Ref. 50010686) – rated of ‘Regional’ importance.

- The site falls just outside the Zone of Archaeological Constraint associated with the Record of Monuments and Places of Dublin City – DU018-020.
- Section 15.5.1 states- ‘Brownfield lands have the ability to regenerate and rejuvenate large portions of the city through redevelopment’. DCC will seek to ensure, *inter alia*, the following considerations for brownfield development:
 - To encourage innovative, high quality urban design and architectural detail in all new development proposals.
 - To analyse and review the surrounding built environment to ensure the new development is consistent with the character of the area.
 - To contribute to the streetscape creating active and vibrant public realm.
 - To create animation and create activity at street level and vertically throughout the building.
 - To provide for appropriate materials and finishes in the context of the surrounding buildings.
 - To prioritise pedestrian and cycle movements in connection with public transport infrastructure.
- Section 15.6.3 states, in relation to green roofs- “DCC will require all new development projects over 100sq.m to provide green roofs to assist in climate action and urban drainage in accordance with Policy SI23. Refer to Appendix 11 for further details”.
- Section 15.8.6 states- “The public open space requirement for residential developments shall be 10% of the overall site area as public open space”. Section 15.8.7 states- “Public open space will normally be located on-site, however, in some instances it may be more appropriate to seek a financial contribution towards its provision elsewhere in the vicinity. This would include cases where it is not feasible, due to site constraints or other factors, to locate the open space on site...”.

- Section 15.9.8 states- “On refurbishment or infill sites of up to 0.25 ha, the communal amenity requirements may be relaxed on a case by case basis”.
- Section 15.13.5 deals with mews developments. “The relationship between the historic main house and its mews structure remains a relevant consideration for architectural heritage protection”. Section 15.13.5.2 states- “New buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials. The height of mews building should not negatively impact on the views from the main property. Development will generally be confined to two-storey buildings. In certain circumstances, three-storey mews developments incorporating apartments will be acceptable, where the proposed mews building:
 - Is subordinate in height and scale to the main building.
 - Is maintaining the established height of existing mews roof ridgelines.
 - Has an acceptable level of open space and where the laneway is suitable for resulting traffic conditions.
 - Has sufficiently sized apartment units in line with the relevant Section 28 Guidelines.

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

Proposals for an additional set back level may be considered on a case by case basis where the additional floor is integrated within the pitched roof element of the structure or where the design and form is contemporary. The set-back should be a minimum of 1.5 metres from the front building line”.

5.3. Henrietta Street Conservation Plan

- 5.3.1. This is a non-statutory plan prepared by Shaffrey Associates & Others for DCC and The Heritage Council – commissioned March 2004. The street ranks as one of the most important architectural and urban ensembles in the country. The Plan was prepared to address the cultural renewal of what is otherwise a somewhat run-down part of the north inner city. The appeal site lies within the boundaries of this Plan.

Section 6.3.1 states- “Henrietta Lane which currently comprises a mix of small scale light industrial and storage uses does not presently impact greatly on the street, albeit that they do [sic] contribute to the rich diversity of uses which is notable in this area. However, many of these uses are becoming increasingly rare survivals in the city centre. Uses such as car repair workshops, joinery workshops and monumental works are gradually disappearing from the historic city as the city loses its role as a place of enterprise and industry. Several of the buildings on the Lane are in poor condition and others underused, there is a strong sense that change is imminent”. The section further states- “The interpretation of ‘curtilage’ in regard of a Protected Structure under the Planning and Development Act 2000, is presently unclear and therefore an assumption that the Protected Structure status on the Henrietta Street houses would extend to the mews on Henrietta Lane – being part of the historic curtilage – could be argued as being incorrect. This uncertain status places any surviving structures of architectural historical value on Henrietta Lane at risk’. Apart from the above, there are no specific policies relating to redevelopment of individual mews sites”.

5.4. Natural Heritage Designations

- 5.4.1. The development was screened for appropriate assessment by DCC. The nearest Natura 2000 site is the South Dublin Bay and River Tolka Estuary SPA (approximately 3km to the northeast), while South Dublin Bay SAC is located approximately 4km to the southeast. There are several other Natura 2000 sites within the wider Dublin Bay area to the east, including North Bull Island SPA and North Dublin Bay SAC. The site is not, therefore, located within or adjoining any Natura 2000 Sites, and there are no direct pathways between the site and the Natura 2000 network.
- 5.4.2. There are potential indirect connections to the Natura 2000 sites within Dublin Bay groundwater discharge, and the wider drainage network. There is also an indirect connection via the wastewater network which outfalls to Dublin Bay via the Ringsend WWTP. However, the existence of these potential pathways does not necessarily mean that potential significant impacts will arise.

- 5.4.3. There are no surface watercourses in the immediate vicinity of the site that would provide a pathway to the Natura 2000 network. I note that surface water will be collected and discharged to the combined sewer on Henrietta Lane, and will not discharge to groundwater. The combined storm/foul water emissions from the development would result in marginal increased loading on the Ringsend WWTP – regard being had to the fact that there is an existing workshop building on the site. Having regard to the limited scale of the development and the associated discharges and the capacity of the Ringsend WWTP, I would be satisfied that there is no possibility that the additional loading, resulting from the development, would result in significant effects on European sites within Dublin Bay.
- 5.4.4. GSI mapping indicates that groundwater vulnerability is low at this location, and I would be satisfied that any excavation or ground disturbance would not be likely to impact on the quality of groundwater. There is no basement proposal within this development. Furthermore, there is a significant separation distance between the appeal site and the nearest Natura 2000 sites, which would provide significant dilution capacity in the unlikely event of any such impacts on groundwater quality.
- 5.4.5. I am satisfied that any proposals incorporated within the development, including surface water management proposals, constitute standard best practice and that no mitigation measures are relied upon for Appropriate Assessment screening. Having regard to the above preliminary examination, I am satisfied that no Appropriate Assessment issues arise, and I do not consider that the proposed development, either individually or in combination with other plans or projects, would be likely to have a significant effect on a European site. Accordingly, a Stage 2 Appropriate Assessment is not required.

5.5. **Environmental Impact Assessment Screening**

- 5.5.1. With regard to environmental impact assessment (EIA) thresholds; Class (10)(b) of Schedule 5, Part 2 of the Planning and Development Regulations, 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units.

- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use).

5.5.2. It is proposed to construct a residential development containing 6 dwelling units.

Therefore, the number of dwellings proposed is substantially below the threshold of 500 dwelling units. The site has an overall area of c.0.02ha and is also, therefore, significantly below the applicable site area thresholds, even if the site is deemed to be within a ‘business district’.

5.5.3. The site is largely surrounded by residential development, community development and small-scale commercial uses. The introduction of a residential development will not have an adverse impact, in environmental terms, on surrounding land uses. It is acknowledged that the site is located adjacent to a Conservation Area and could be considered to be within the curtilage of a Protected Structure. It is also proximate to a Zone of Archaeological Interest (as per the Development Plan) and to the Zone of Archaeological Constraint for the Recorded Monument of Dublin City. I am satisfied that the issues of archaeological and architectural heritage can be satisfactorily assessed through the normal planning process.

5.5.4. The proposed development is not likely to have a significant effect on any European Site – as outlined elsewhere in this Inspector’s Report. There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors).

5.5.5. The proposed development would not give rise to waste, pollution or nuisances that differ from those arising from other housing/mixed-use development in the area. It would not give rise to a risk of major accidents or risks to human health. The proposed development will connect to public water and sewer services, upon which its effects would be minimal.

5.5.6. Having regard to the nature and scale of the proposed development and the location and nature of the subject site, together with the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development would not be likely to have significant effects on the environment and that, on preliminary examination, an Environmental Impact Assessment Report (EIAR) or a

determination in relation to the requirement for an EIAR, is not necessary in this case. DCC screened the application for EIA.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appeal from CDP Architecture, agent on behalf of the applicant, Easy Living Developments Ltd, received by the Board on 26th July 2022, can be summarised in bullet point format as follows-

- The development was reduced in size to three-storey-plus-dormer, by way of additional information submission. This substantially altered the elevations to north and south.
- The development complies with the zoning and with policy on mews development.
- Permission has been granted for similar mews structures to the rear of Protected Structures – and reference is made to development at 42-43 Blessington Street.
- The site is not a Protected Structure – although it was once part of the curtilage of 8 Henrietta Street.
- The site is not within a Conservation Area.
- A Conservation Architect was engaged for the making of the application.
- The permitted development at 3 Henrietta Lane reads as one block, and is not broken down into smaller units, as is the proposed development at 8A.
- Student accommodation across Henrietta Lane, on Dominick Street Upper, is seven storeys – and towers over the appeal site. Annotated aerial photography is inserted into the appeal documentation, to emphasise this point.
- Obscure glazing is proposed only for the upper parts of bedroom windows in the rear elevation for first and second floors (diagram included). Obscure glazing does let light through – unlike opaque glazing. Window opens now

break up the massing of the rear elevation. Living/kitchen/dining areas have been kept to the front of the building – addressing Henrietta Lane – save on ground floor level where the boundary wall will prevent overlooking. All balconies address Henrietta Lane.

- The development will not result in overshadowing of the playground – being to the north of it.
- Neither the Transportation Planning Division nor the Drainage Division of DCC objected to the development.
- The ridge-line of the development is the same height as the adjoining community building to the west. The building to the west is much larger – spanning two properties on the mews lane. Its bulk and massing is much greater than that proposed on the appeal site. This adjoining block has the same relation with Protected Structures on Henrietta Street.
- The Conservation Office recommended clarification of additional information, and not refusal of permission.
- The development is in accordance with national policy to increase density. Houses are badly needed in Dublin. A variety of unit sizes is proposed.
- The scheme is proximate to the city centre and has good public transport links – Luas and bus. It will not add to traffic congestion – having no parking spaces.

6.1.2. The appeal is accompanied by a set of drainage drawings.

6.2. **Planning Authority Response**

The response of DCC, received by the Board on 16th August 2022, requested the Board to attach development contribution conditions in relation to sections 48 & 49, a bond for completion of development and a development contribution *in lieu* of on-site provision of public open space.

6.3. **Observations**

None received.

6.4. Board refers appeal to Prescribed Bodies

6.4.1. By letters dated 12th August 2022, the Board referred the application to the following-

- An Chomhairle Ealaíon.
- The Heritage Council.
- Development Applications Unit (DAU), of Department of Tourism, Culture, Arts, Gaeltacht, Sport & Media.
- Fáilte Ireland.
- An Taisce.

6.4.2. There were no responses received within the appropriate period.

7.0 Assessment

Having inspected the site and examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, and having regard to relevant local/national policies and guidance, I consider that the principal issues of this appeal can be addressed as set out in the sections below.

7.1. National Guidance & Development Plan Considerations

- 7.1.1. The site is zoned 'Z1' for residential development in the current plan for the area; and apartment/studio use is a permissible use. No part of the site comes within the 'Z8' Georgian Conservation Area encompassing Henrietta Street and the King's Inns. Consistent with national policy and guidance, regarding the promotion of brownfield/infill development, the Development Plan also seeks to encourage the development of underutilised lands in appropriate locations. The site comprises underutilised lands at 8A Henrietta Lane and, as such, I consider that the development of the site would be appropriate at this convenient, inner-city location.
- 7.1.2. The Development Plan supports the principle of 'Backland Development' and 'Mews Dwellings', and I consider that the proposed development would be consistent with these principles. The Plan guidance advocates 'comprehensive' and 'unified' approaches to such mews developments, but where the applicant has indicated no

other lands in its ownership in the area, it is difficult to see how this can be achieved, without the involvement of DCC, to bring owners together to co-ordinate proposals – always assuming that owners have the desire and/or means to redevelop their property along Henrietta Lane.

- 7.1.3. The proposed residential development is consistent with local and national policies (particularly as set out in the National Planning Framework), to support compact development on underutilised sites. Accordingly, I would have no objection to the principle of residential development, subject to further assessment, as outlined below in this Inspector's Report.

7.2. Design & Layout

- 7.2.1. The proposed building has a maximum height of 13.3m, which is well below the 24.0m recommended height restriction for residential development in the Inner City – as set out in the Plan. A total of 6 apartments is proposed on a stated site area of 0.02ha. Whilst this equates to a high density of c.300 units/ha, it must be noted that this density is proposed at a limited scale. The original proposed gross floor area of 501sq.m was altered by way of additional information submission. The Development Plan indicates that higher plot ratios and site coverage may be permitted based on certain circumstances such as proximity to public transport, the need for urban renewal, maintaining streetscape profiles, and existing higher site coverage/plot ratio. The plot ratio proposed is within or just below the 2.5-3.0 range identified for the Central Area (Table 2 of Appendix 3 of the Plan). To some extent, the community training building immediately to the west of the site, may be said to have set the standard for mews development – being the only building of note on this side of Henrietta Lane. The proposed apartment building is similar in height to this building – although considerably smaller. I note that the Board has recently granted permission for a four-storey apartment development at 3 Henrietta Lane – a short way to the east (ABP-311064-22). Also of note is the existing seven-storey student accommodation building on the opposite side of Henrietta Lane. This building will tower over any three- or four-storey building on the appeal site.
- 7.2.2. I note the comment of the Conservation Officer of DCC in relation to desire for a three-storey building only on this site. The applicant originally sought to construct a

four-storey building, but altered the proposal to three-storey-plus-dormer, by way of additional information submission. I would see no difficulty with a three-storey-plus-dormer building on this site – noting that the mews site is at a lower level than the ground floor of the main house on Henrietta Street; is similar in height to the community training building to the west; and is equivalent in height to the permitted apartment building at 3 Henrietta Lane.

- 7.2.3. The Development Plan (section 15.5.5) states that DCC will support higher density development in appropriate urban locations in accordance with national guidance. New development should achieve a density that is appropriate to the site conditions and surrounding neighbourhood, and all proposals for higher densities must demonstrate how the proposal contributes to place-making and the creation of sustainable neighbourhoods. Section 5.6 of the Guidelines states that, in order to maximise inner city population growth, there should be no upper limit on the number of dwellings that may be provided within any city centre site, subject to design standards and safeguards. Section 5.7 outlines that the redevelopment of city-centre, brownfield lands, with higher densities, should be promoted, as should the potential for car-free developments. Section 5.8 recommends that increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a rail stop/station (minimum 50 units per/ha, with highest densities at rail/bus stops). This inner-city site is located less than a 500m walk of a range of bus stops on Constitution Hill to the west and Granby Row to the east and is also within 500m of the Dominick Street and Broadstone Luas stops. The site is effectively on the edge of the city centre area, where a wide range of employment, commercial and community facilities are available. I consider that the appeal site is suitable for higher-density development, in accordance with the provisions of the Sustainable Residential Development Guidelines.

7.3. **Apartment Design**

- 7.3.1. Of relevance is the Sustainable Urban Housing: Design Standards for New Apartment – Guidelines for Planning Authorities (December 2022). This is a small apartment scheme, and the mix of unit types proposed within it is acceptable. Specific Planning Policy Requirement 2 refers to urban infill sites of up to 0.25ha, where up to 9 residential units are proposed. There shall be no restriction on

dwelling mix, provided no more than 50% of the development (not more than 4 units) comprises studio-type units. The single studio unit, at 39.5sq.m is greater than the specified minimum of 37.0sq.m. For the 3 one-bedroom units, the floor areas exceed the minimum 45.0sq.m. For the 2 two-bedroom units, the floor areas exceed the minimum 73sq.m. As the scheme has less than 10 units, there is no requirement for the majority of apartments to exceed the minimum floor areas by 10%. All but one of the units are dual-aspect. The single-aspect studio unit is south-facing. However, I would have concerns relating to windows of the two ground floor units which face south. Both open onto tiny courtyards of only 5.6sq.m & 5.7sq.m respectively. Windows will be 1.5m from a blank wall forming the boundary with the classroom and play area immediately to the south. Because the appeal site is at a lower level than the classroom and play area – this separating wall will be approximately 5.0m high when viewed from the site side for the one-bedroom unit, and even higher when viewed from the courtyard of the studio unit – due to the increase height of the classroom unit adjoining the boundary wall. The level of light penetrating to these two courtyard wells would be particularly poor. This is of particular relevance for the studio unit, which is single-aspect. Permission should be refused on grounds of poor quality of amenity for future occupants of these units.

- 7.3.2. Floor-to-ceiling heights for all apartments (both ground and upper floors) meet with the requirements of the Guidelines – the ground floor having a minimum of 2.7m height. One stair core is proposed. The scheme was to have originally been served by a lift, but this was omitted in the additional information submission. I would not see this as a difficulty, as the two second floor units are duplex – so all unit are accessed either from ground, first or second floor level.
- 7.3.3. At only 3.5m in width, the studio unit does not meet the minimum 4.0m requirement set out at Appendix 1 of the Guidelines. The other 5 units within the scheme meet the minimum requirements for width of living/dining-room areas. The minimum bedroom width within the studio unit is not met – again being 4.0. The minimum bedroom widths are met within the other 5 units. The minimum aggregate bedroom floor areas is met within all 6 units. The minimum storage space requirement is met for all 6 units. The minimum private amenity space requirement is met for all units with the exception of the 2 two-bedroom units – which require a minimum balcony/terrace area of 7.0sq.m; but which are provided with only 6.0sq.m & 6.1sq.m

respectively. Section 3.39 of the Guidelines states that on sites of less than 0.25ha, private amenity space requirement may be relaxed in part. There is no real need to relax the 7.0sq.m minimum for two-bedroom units on this site; as redesign of the units could allow for the minimum open space to be provided. I note that, for the four units on the upper three floors of the building, the balconies all face north-northeast; which is less than ideal. This situation is effectively imposed on the scheme by the presence of the children's play area immediately to the south, which should not be overlooked at such close proximity.

7.3.4. Communal facilities for this scheme are provided in the form of bin storage and bicycle storage at ground level. The original scheme provided for a small area of communal open space at first floor level to the rear of the block; but this was omitted by way of a redesigned scheme submitted by way of additional information. Section 4.12 of the Guidelines states that on sites of up to 0.25ha, communal amenity space may be related on part or whole. I would be satisfied that having regard to the limited site area and scheme size – open space area is better allocated on an individual apartment basis.

7.3.5. The redesigned scheme provided for obscure glazing windows within the stair-core, which immediately abuts the property boundary. This is an undesirable arrangement which would severely restrict the future development potential of the adjoining property to the south. The proposed development should, in general, allow for the mirroring of development on the adjoining site. Similarly, the proximity of bedroom windows to the property boundary to the south (1.5m separation) would not allow for the mirroring of development on the adjoining site – whilst still providing an acceptable degree of amenity for future occupants. I note the comment of the appellant in relation to the upper panes of these bedroom windows being in obscured glazing (so as to obviate overlooking of the play area to the south). However, I would consider that obscured glazing would offer a poor level of amenity for future occupants. Clear glazing in lower panes would not obviate overlooking of the play area to the south – from the vantage point of a person standing a little further back into the room or else squatting down. The fact that such measures need to be considered, to prevent overlooking, is an indication that the design is unsuitable for the site.

7.4. Architectural Heritage

- 7.4.1. I note the comment in the Henrietta Street Conservation Plan (non-statutory) in relation to the definition of 'curtilage' of Protected Structures in the 2000 Act, being presently unclear. An assumption that the Protected Structure status on the Henrietta Street houses would extend to the mews site on Henrietta Lane – being part of the historic curtilage – could be argued as being incorrect. The applicant accepts that any remaining boundary walls with adjoining 7A & 9A, will have to be conserved, if they exist behind the concrete block walls of the workshop structure on the appeal site. The appeal site is in separate ownership to 8 Henrietta Street – a Protected Structure. There is no indication given as to how long the properties have been sundered. Notwithstanding this, the impact of the proposed development on the Protected Structure must be examined.
- 7.4.2. Whilst local and national policies seek to increase building height and density, it is important that new development successfully integrates with the character of the area, particularly in architecturally sensitive areas. This is a key issue in this appeal. I note that the Architectural Heritage Protection Guidelines acknowledge that the setting of an Architectural Conservation Area or Protected Structure can be adversely affected by development proposals, even if outside the curtilage and attendant grounds of a Protected Structure, and that the impact of proposals will depend, *inter alia*, on location and the character/quality of the Protected Structure/Architectural Conservation Area.
- 7.4.3. The application was accompanied by an Architectural Heritage Impact Assessment, and revised report from a Conservation Architect by way of additional information submission. The design of the scheme was revised, so as to present a more attractive façade, addressing the Protected Structure. The building is separated from the rear of the Protected Structure by approximately 30m. This is roughly the same distance as separates the community training centre building to the west from 9 & 10 Henrietta Street. This separation distance, together with the lower level of 8 Henrietta Lane relative to 8 Henrietta Street (the mews site appears to be slightly below the level of the basement of the main house), is sufficient to emphasise the subsidiary nature of the proposed mews building. Views from the rear windows of the ground and first floor of the Protected Structure will not be significantly impacted

– regard being had to the backdrop seven-storey student accommodation, on the opposite side of Henrietta Lane. No. 8 Henrietta Street is a substantial four-storey-over basement house. Drawings submitted show it to be approximately 7m taller than the ridge-line of the proposed mews development.

- 7.4.4. At present, the environment along the Henrietta Lane could be considered unattractive. Recent developments on the north side of the Lane have improved its overall appearance and quality. The predominant function, as a service access for storage/workshop uses, has meant that the area is lacking in active frontage and passive surveillance, which has contributed to what is a generally unattractive cul-de-sac. However, this is being addressed through the regeneration of backland sites with more appropriate uses and higher-quality urban design. The proposed redevelopment of this site for residential use, would be a significant improvement to the existing environment. It would provide a much-improved façade onto Henrietta Lane, and the residential use would provide added vibrancy and surveillance to a neglected area. It would result in improved legibility and a better mix of uses in the area, which may facilitate more appropriate development in the future, including street-level activity.
- 7.4.5. Having considered the scale, height and massing of the proposed development, together with its distance from, and interface with, Protected Structures and the Henrietta Street Conservation Area, I consider that the proposal will satisfactorily integrate with these heritage buildings (as they now are), as well as the more modern development immediately to the west, and also to the north of the site on the opposite side of Henrietta Lane. The proposed contemporary design approach is an appropriate response to the site context. The proposal will provide an appropriate juxtaposition of character, to suitably distinguish between the historic and the contemporary – avoiding any suggestion of pastiche. The building will make a positive contribution towards the ongoing evolution of the character of the area. An objection remains with regard to the way the building addresses the curtilage to the rear of 8 Henrietta Street, and the uses to which this curtilage is currently put. The design of the building, as it addresses the curtilage of 8 Henrietta Street would detract from the amenities of this area, and its future development potential.

7.5. Access & Parking

7.5.1. Access

The existing workshop on the site protrudes into Henrietta Lane. It is proposed to set back the frontage of the site, in line with the adjoining building to the west. Whilst this may appear neater, there is no good reason for doing this – particularly on a very tight site, where space could be utilised to better advantage to the rear of the block. There is private, gated space between the adjoining community training building and Henrietta Lane; which will not change. The resulting building will now be set back behind the existing building line of adjoining 7A to the east. I note that the student accommodation block on the opposite side of the Henrietta Lane has fire-escape doorways opening directly onto the Lane (one of which is provided with a refuge). The Lane is a shared surface without any defined footpaths. There are vehicular entrance gates further to the west along Henrietta Lane. Henrietta Lane is approximately 6m in width to the east of the site – and the proposed development will result in a widening of the Lane directly in front of the site. There will be two doorways within the development opening directly off the Lane – at set-back line. The arrangements proposed were acceptable to the Transportation Planning Division of DCC. In the context of a shared-surface lane, which forms a cul de sac a short way to the west of the appeal site, I would be satisfied that the proposed development would not constitute a traffic hazard, and would be acceptable in terms of traffic safety and convenience.

7.5.2. Parking

The application is accompanied by a Mobility Management Plan. There are no parking spaces proposed within this scheme. This arrangement was acceptable to the Transportation Planning Division of DCC. The site is located proximate to bus and Luas stops, and within easy walking distance of city centre amenities. There is provision on the ground floor, for parking of 10 bicycles within a two-tier rack scheme. The Transportation Planning Division required that two-tier parking be gas-assisted for ease of use. This absence of parking for a development such as this one is in accordance with national policy to encouraging walking, cycling and use of public transport.

7.6. Water, Drainage & Flooding

7.6.1. Water Supply

The application was accompanied by a copy of a Pre-Connection Enquiry form, submitted to Irish Water. There is no indication of any response to the PCE. The application was referred for comment to Irish Water by DCC. There is stated to be a new 100mm diameter watermain in Henrietta Lane. There is no response from IW to the PCE on the file, and so it cannot be determined if there is capacity in the network to serve this development.

7.6.2. Foul Drainage

The development will discharge to an existing 150mm private sewer within the boundary of the site, and from thence to a combined 1,050mm diameter sewer in Henrietta Lane. This was acceptable to the Engineering Department – Drainage Division of DCC. I would see no difficulty with the proposed arrangements for foul drainage. However, I note that there is no confirmation from Irish Water that capacity exists in the sewer, to serve this development.

7.6.3. Surface Water

A sedum roof was proposed as a SuDS attenuation measure for this development. Plans submitted made provision for spur connections to a possible, future, dedicated surface water sewer in Henrietta Lane. Ultimate outfall is to a combined 1,050mm diameter concrete sewer in Henrietta Lane – as there is no room on the site for a soakway. The additional information submission altered this arrangement, and provided for a pitched roof to the development. The original proposal was acceptable to the Engineering Department – Drainage Division of DCC, but there is no supplementary report relating to the additional information submission; and the proposal to remove the green roof SuDS arrangements. Appendix 11 of the Plan states that exemptions to the requirement for green roofs will only apply in exceptional circumstances. This would not appear to be the case in the current instance, where green-roof SuDS measures were originally contemplated. I note that ultimate discharge is to a combined sewer in the control of Irish Water, and there is no indication as to whether capacity exists within this combined sewer for the development. However, as the discharge from the roof of the present workshop

must ultimately be discharging to the combined sewer in Henrietta Lane, the proposed development will not make any significant difference to that arrangement.

7.6.4. Flooding

There is no indication given as to whether this site is subject to flooding. The report of the Drainage Division of DCC recommended submission of a Site-Specific Flood Risk Assessment in accordance with OPW guidelines. Volume 7 of the Development Plan deals with Strategic Flood Risk Assessment. Map E indicates that the site is not located within either Flood Zone A or Flood Zone B. The concern in this area would be pluvial flooding of ground floor units – particularly where no on-site storage of rainwater is available. There is no indication that the finished floor level is above a possible event within Flood Zone C, and no allowance made for climate change and increased intensity of rainfall events.

7.7. **Other Issues**

7.7.1. Development Contributions & Bond

If the Board is minded to grant permission, conditions should be attached requiring payment of a development contribution in accordance with the Development Contribution Scheme in force for DCC, and also for a Special Development Contribution for Light Rail – regard being had to the proximity of the development to Luas lines. DCC also request that a contribution be required of the developer *in lieu* of on-site provision of public open space. This would appear to be reasonable. A bond for the completion of the development should also be attached to any grant of permission to issue from the Board.

7.7.2. Part V

There is a Social Housing Exemption Certificate (dated 4th March 2022) on the file – stating that the development does not have to comply with the requirements of Part V of the Act.

7.7.3. Construction Impacts

The application was accompanied by an Outline Construction Management Plan & Waste Management Plan. Any construction disturbance impacts on adjoining properties will be of a limited and temporary nature; and are inevitable and

unavoidable aspects associated with urban development. I am satisfied that this matter can be satisfactorily dealt with by way of conditions requiring the submission, for written agreement of DCC, of detailed construction management proposals to address any impacts. Regarding potential structural damage, I note that it is not clear whether original calp limestone boundary walls are in existence behind the concrete block walls of the workshop on the site. The applicant has indicated how repairs will be effected, should such boundary walls exist. In the unlikely event of structural damage to adjoining property, it would be a civil matter for resolution between the relevant parties; and the planning authority (in the event of unauthorised works to a Protected Structure). However, I am satisfied that suitable mitigation measures have been submitted in this regard, and the question of any other structural damage would be outside the scope of this appeal.

7.7.4. Archaeology

The application was accompanied by an Architectural Heritage Impact Assessment, which does not address the issue of archaeology. The site adjoins the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Historic City) and the Zone of Archaeological Interest as per the Development Plan. The report of the Archaeology Section of DCC, states that 18th Century remains of buildings, associated with 8 Henrietta Street, likely still exist beneath the surface, and concludes that ground disturbances could adversely impact on previously unrecorded features. It recommends that ground disturbances should be monitored by a suitably-qualified archaeologist. Consistent with the DCC approach, I am satisfied that this could be satisfactorily addressed through a condition requiring suitable assessment/monitoring prior to, and during, the construction stage.

7.7.5. Management

If the Board is minded to grant permission, a condition should be attached in relation to the institution of a management company – as the development is not to be taken-in-charge by DCC.

7.7.6. Overshadowing

The observation to DCC referred to overshadowing of convent property and uses. The proposed building is located immediately to the east of a structure of equal height on the convent site – addressing Henrietta Lane. As buildings of equivalent

height, they will not have any impact on each other. The proposed apartments are located to the north of the play area and classroom on the adjoining site to the south, and so, will have no impact in terms of overshadowing. The proposed block, being the same height as the community training building, will have a similar impact on the student accommodation on the opposite side of Henrietta Lane. I note that this student accommodation, where it is constructed hard on the boundary of the Lane, presents a blank wall to the Lane, with the exception of windows lighting a stairwell. In addition, there is a single-storey electricity sub-station which is not a sensitive use. There are windows within the student accommodation building, which address the Lane; but these are set back at some distance from the Lane – being at first-floor level and above. The adjoining site to the east comprises a semi-derelict shed – with corrugated iron roof. The development will not have any significant impact on this unit. I would be satisfied that the development will not have any significant impact in terms of daylight and sunlight on surrounding property.

8.0 Recommendation

I recommend that permission be refused for the Reasons and Considerations set out below.

9.0 Reasons and Considerations

1. Having regard to-

- a) the position of the proposed building relative to the play area within the curtilage of 8 Henrietta Street to the south,
- b) the location of stairwell windows on the property boundary,
- c) the location of first- and second-floor bedroom windows 1.5m from the common boundary with 8 Henrietta Street,

it is considered that, notwithstanding the proposed use of obscured glazing in some of the glazing panels on the southern façade of the building, the proposed development would result in overlooking of adjoining property to the south, which would seriously injure the amenities and depreciate the value of property in the vicinity.

2. The layout of the ground-floor studio apartment does not meet with the minimum width standard, set down for such units in the “Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (December 2022)”, prepared by the Department of Housing, Local Government and Heritage. The balcony areas for the 2 two-bedroom units do not meet with the minimum area requirements set down in the aforementioned Guidelines. The proposed development would, therefore, be detrimental to the residential amenities of future occupants of the units.
3. The sunken courtyards for the two ground floor units would provide a very poor quality of amenity space for future occupants of the units – regard being had to their limited depth and area; and the ground level relative to the level of the adjoining play area/classroom structure and the boundary wall with this property to the south. The proposed development would, therefore, seriously injure the amenities of future occupants of the units.
4. The level of daylight and sunlight available to the studio unit within the development would be seriously substandard, and would be detrimental to the residential amenities of future occupants.
5. The development would contravene the requirements of section 15.6.3 of the current development plan for the area, which states, in relation to green roofs- “DCC will require all new development projects over 100sq.m to provide green roofs to assist in climate action and urban drainage in accordance with Policy SI23. Refer to Appendix 11 for further details”. The proposed development, which makes no provision for green roofs would, therefore, be contrary to the proper planning and sustainable development of the area, having regard, in particular, to the absence of a dedicated surface water sewer in this area.
6. The proposed development could be prejudicial to public health, in the absence of any indication from Irish Water to the existence of capacity in the water supply and foul drainage networks in the area, to supply this development.

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.

**Michael Dillon,
Planning Inspectorate.**

2nd May 2023