



An  
Bord  
Pleanála

## Inspector's Report ABP 315194-22

### Development

Renovation of fanlight on front elevation. Retention of extensions to front and rear and internal/external alterations of main building including plant room to front and roof alterations and alterations to rear coach house with all associated site works.

Change of use from mixed use (office use/storage/residential) to dwelling along with ancillary residential use of coach house. (Protected Structure)

### Location

21 Herbert Place Dublin 2 DO2 KP63.

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

3409/22.

### Applicant(s)

Gerry Walsh.

### Type of Application

Retention permission/permission

### Planning Authority Decision

Grant permission subject to conditions.

### Type of Appeal

First Pary v condition

<b>Appellant(s)</b>	Gerry Walsh.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	18 <sup>th</sup> August 2023.
<b>Inspector</b>	Philip Green.

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the northern side of the Grand Canal, south Dublin City. The property includes a mid-terrace 2 bay three storey over basement main building to front (5 storey overall to rear) with three storey rear return located in a late Georgian terrace of some 25 similar attractive buildings. The front of the property overlooks the canal and is set back from the road behind cast iron railings. To the north of the property is Herbert Lane dividing the properties on Herbert Place from those on Herbert Street further to the north-west.
- 1.2. The property appears to have been the subject of alteration and refurbishment work some of which are the subject matter of this appeal. To the rear of the main building the appeal premises includes a small open garden area leading to a two storey mews structure fronting Herbert Lane. A modern single storey rear extension running almost the entire width of the house has been constructed as part of the refurbishment works in this garden area. To the front adjacent to its boundary with No 20 modern cabinets housing plant/services, a meter box and a separate fan unit have been installed.
- 1.3. The property is a designated protected structure as are all the other buildings in the terrace of which this property forms part.
- 1.4. The property appears now to be used as a single dwellinghouse including ancillary residential use of the rear mews building.
- 1.5. At my site inspection I was able to gain access to much of the restored main building and to the rear mews along with the front and rear gardens. A limited viewing of the loft only was possible due to the difficulties of access via the loft hatch. My inspection also included viewing the appeal property in the streetscape of both Herbert Place and Herbert Lane.
- 1.6. I include photographs of the site taken at my site visit as an attachment to this report. I also draw the Board's attention to photographic submissions made by the Applicant/Appellant in the submissions as part of the initial application and subsequent appeal, This contains internal and external images of the property.

## 2.0 Proposed Development

The majority of the development works to which this application relates, with the exception of the front fanlight, was sought retrospectively. As apparent from the application drawings and submissions on file the application included:

- **Proposed** renovation of existing metal fanlight over main entrance door off Herbert Place and  
**retention of**
- Extensions, alterations and renovations of the existing part three storey over garden level (to front) and part two and part four storey over garden level to rear main building including construction of free standing single storey plant/meter room and sunken patio to front, alterations and single storey extension to rear, internal alterations on all floors, alterations to all windows and doors, repair and conservation works at roof level including new rooflight and
- Renovations and alterations to existing two storey coach house to rear facing Herbert lane including reinstatement of previously removed first floor and new stairs, replacement of non original metal roof with new roof structure and natural slate, replacement/renovation of windows and doors, installation of 2 no. conservation type roof windows and all associated site works and services;
- Change of use of main building from mixed use office and storage and residential use to single dwelling and use of coach house as car parking and gym ancillary to main dwelling.

2.1. The application was accompanied by a Conservation Report/Conservation Impact Statement and a method statement for the fanlight restoration and associated drawings.

I note from the documentation on file that no pre planning meetings are stated to have been held in respect of these works.

## 3.0 Planning Authority Decision

3.1. Following making of a Further Information request by DCC and the Applicant's response DCC issued a Notification of Decision to grant permission/retention permission subject to 8 no. conditions. Of note in regard to this appeal is the requirements of Condition No. 7 which include:

- revised plans showing relocation of fan coil unit, meter and plant room and no use of plastic green foliage systems and a revised specification for the attic insulation which shall be sheep wool or cellulose insulation,
- Isover Optimal internal wall insulation to walls of rear return and lower ground floor to be removed and replaced with a calcium silicate board should internal insulation be required,
- inserted panelling to walls of historic principal rooms (reception rooms and bedrooms) and staircases to be removed and provision of a conservation method statement for repair of historic plaster associated with this removal,
- employment of conservation expert to oversee works and
- development to be carried out in accordance with best conservation practice, existing original features to be protected, use of experienced conservators for works to historic fabric, work to be carried out to highest standards to complement the protected structure and historic area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

**The first DCC planners report** noted the following:

- Z8 zoning of front of site (Georgian Conservation Area) and Z1 zoning (to protect or improve residential amenities) to rear and location in a conservation area;
- Conservation Officers concerns and request for Further Information;
- Section 11.1.5.3 (Protected Structures) and 11.1.5.6 (Conservation Areas) of Development Plan 2016-2022;

- Welcomed return to single dwelling use including refurbishment and ancillary use of coach house however expressed serious reservations regarding carrying out of works to a protected structure without planning permission;
- Refers at some length to comments of DCC Conservation Officer in regard to the unauthorised development wherein it is stated that “ much of the work that has been incurred ... is of poor architectural quality and has caused serious injury to the fabric and legibility of the protected structure, the original coach house to the rear and the garden space to the front and rear”. Reference is also made to the enforcement case open in respect of the work which this application sought to regularise;
- Notes concerns of Conservation Officer in regard to following: plant/meter room enclosure, bin store, pointing and rendering, source/use of slates, dry lining system installed, use of panelling, use of strip lighting, inappropriate design of door to laundry room, inadequate detailing of plasterwork carried out, inappropriate velux rooflights installed, inappropriate landscaping of front garden, inadequate detailing provided in regard to repair of windows, replacement of windows with doors, insufficient detailing of the new installed services, insufficient explanation and justification of why basement floor replaced, insufficient description of works carried out to coach house and revised specification for works to fanlight required;
- Concluded a full appropriate assessment of the project is not required;
- Concluded that an EIA is not required in this instance due to the nature and scale of the development;
- Further Information was recommended.

On 22<sup>nd</sup> April 2022 the DCC issued a Further Information request reflecting the concerns of the Planner/Conservation Officer. A response to this request was received by DCC on 5<sup>th</sup> October 2022 and included further supporting statements and details showing drainage and ventilator runs, typical wall panelling detailing, methodology for the removal of non original rendering and pointing, replacement methodology with lime pointing and render, methodology for removal of paint from cornice and ceiling roses, supporting letters from Engineers regarding works to mews building and services installation, NSAI agreement relating to the Isover Dry Lining

System and associated manufacturer brochure, letter from sash window installer and revised method statement for renovation of fanlight. After receiving the Conservation Officer's comments on the Further Information received the DCC Planner prepared a further report dated 1<sup>st</sup> November 2022.

**The second DCC planners report** noted the following outstanding matters based on the Applicant's FI response and Conservation Officer's comments:

- External fan coil unit to be relocated to a less sensitive location;
- Structure in front garden housing a meter and plant room to be relocated and plastic green foliage system not to be used;
- Information provided not sufficient to demonstrate suitability of dry lining system in traditional buildings and should be replaced with calcium silicate board should lining be required,
- Revised specification for attic insulation still required (to be sheep wool or cellulose only);
- Panelling inappropriate in an early 19<sup>th</sup> century building and should be removed. No details provided of condition of underlying plaster;

This report concluded with a recommendation of permission subject to conditions including Condition No. 7 referred to above (see Section 3.1) which sought to address the outstanding concerns of the Conservation Officer.

#### 3.2.2. Other Technical Reports

Transportation Planning Division made no objection subject to conditions including that the vehicular access door not to be outward opening.

## 4.0 Planning History

- Although no details have been provided by DCC the Applicants submissions make reference to DCC permission reference 2848/02 for conversion of the rear mews building to a house. It is stated that that permission was not implemented and has since expired. In addition the planning application form refers to an Enforcement Notice Ref No 3722 in regard to this property

although the DCC Planners report refers to an Enforcement Notice ref No 0420/21 (refurbishment works) .

## 5.0 Policy and Context

### 5.1. Architectural Heritage Protection Guidelines for Planning Authorities (2011)

- This document recognises the importance of the protection of the architectural heritage of the State setting out the purpose, legal and administrative basis for such protection. It also offers detail guidance for protecting protected structures when works are proposed. This Guidance is seen as being relevant for both planning authorities and for owners.
- In Section 6 of the Guidelines reference is made to development control matters including handling and content of pre planning meetings, enforcement and retention permissions. Part 2 of the Guidelines sets out the overriding conservation principles that should be applied when dealing with protected structures and then in subsequent Chapters provides detailed guidance in relation to specific features of such buildings.
- In relation to general approach to protected structures it is stated ‘Conservation is the process of caring for buildings and places and of managing change to them in such a way as to retain their character and special interest. Historic structures are a unique resource. Once lost, they cannot be replaced. If their special qualities are degraded, these can rarely be recaptured. Damage can be caused to the character of a historic structure as much by over-attention as by neglect. Over-restoration can harm the special qualities of a building with the loss of details, materials and craftsmanship which, while sometimes seeming of little significance in themselves, can contribute to the character of the building and make it special. For this reason, it is vitally important that proposals for works to protected structures... be examined at a detailed level. It is intended these detailed guidance notes will draw attention to the importance of the seemingly minor details of a historic building that nonetheless play an important part in establishing its character.’



- Conservation principles relating to protected structures are set out. This includes keeping a building in use, researching and analysing the building, using expert conservation advice, protected the building's special interest, promoting minimum intervention (including reference to damaging over restoration and uninformed conjectural restoration), respecting earlier alterations of interest, repairing rather than replacing, promoting honesty of repairs and alterations, use of appropriate materials and methods, ensuring for reversibility of alterations, avoiding incremental damage (including avoiding small scale damaging changes to external features such as gardens), discouraging architectural salvage and compliance with Building Regulations (noting that approaches other than those contained in the TGDs may be appropriate in order to ensure compliance while protecting the character of protected structures).
- I refer to a number of these principles and the more detailed guidance from this document as it relates to the subject matter of this appeal in my Assessment below.

### **Dublin City Development Plan 2022-2028**

- Whilst the Planners report refers to the Dublin City Development Plan 2016-2022 the DCC website indicates that the Dublin City Development Plan 2022-2028 was adopted at a Special Council meeting on the 2nd of November 2022 and came into effect on the 14th of December 2022. This report will therefore have regard to Development Plan policy as set out in this most recently adopted document.
- On the Zoning Map of the current Development Plan the site lies within an area zoned Z8 – ‘Georgian Conservation Areas’. The site also lies within a separately designated Conservation Area and the building is identified as a Protected Structure No 3722 (House) on the RPS. All the other buildings in this terrace are designated separately and in their own right as protected structures. The report of the DCC Conservation Officer notes that No. 21 has been surveyed by the NIAH (Ref 50100672) as being of Architectural and Artistic Interest and has been afforded a regional rating.

- Land-Use Zoning Objective Z8 is ‘to protect the existing architectural and civic design character and to allow only for limited expansion consistent with the conservation objective.’ Lands zoned Z8 incorporate the main conservation areas in the city, primarily the Georgian squares and streets. The aim is to protect the architectural character/design and overall setting of such areas while facilitating regeneration, cultural uses and encouraging appropriate residential development (such as well-designed mews) in the Georgian areas of the city.... Chapter 11: Built Heritage and Archaeology, and Chapter 15: Development Standards, should be consulted to inform any proposed development, as these detail policies/objectives for conservation and heritage and also set out standards.
- Section 11.5.1 states that ‘All works to protected structures shall be carried out to the highest standards in accordance with the Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht, 2011). Additional guidance for proposed works to and the repair of historic structures and features are published by the Department of Housing, Local Government and Heritage Advice Series’ ....’ The City Council will manage and control external and internal works that materially affect the architectural character of the structure through the development management process. Planning permission is required for any works, including repairs, which would materially affect the character of the structure or its special interest. All planning applications relating to protected structures shall contain the appropriate level of documentation in accordance with Article 23 (2) of the Planning and Development Regulations, 2001 (as amended) and Chapter 6 and Appendix B of the ‘Architectural Heritage Protection Guidelines for Planning Authorities’ (2011), or any variation thereof including where relevant an Architectural Heritage Impact Assessment ..... In carrying out works to protected structures in accordance with the requirements of building regulations, the special interest and character of the building should be considered. Further guidance is provided in the Advice Series publication Access: Improving the Accessibility of Historic Buildings and Places (2011), and Energy Efficiency in Traditional Buildings (2010), published by the then

Department of Arts, Heritage and the Gaeltacht, and now issued by the Department of Housing, Local Government and Heritage.’

- Policy BHA1 reflects these objectives. This seeks to conserve and enhance protected structures, their curtilage and setting. Amongst other matters it states that regard must be had to the Architectural Heritage Guidelines and to protect structures included on the RPS from any works that would negatively impact their special character and appearance, ensure that works are carried out in line with best conservation practice as advised by a suitably qualified person with expertise in architectural conservation. ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials and respect the historic fabric and the special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.
- Chapter 15.15.2.3 Protected Structures further states all planning applications for development/works to Protected Structures must provide the appropriate level of documentation, including an Architectural Heritage Impact Assessment, in accordance with Article 23 (2) of the Planning and Development Regulations, 2001 (as amended) and chapter 6 and appendix B of the ‘Architectural Heritage Protection Guidelines for Planning Authorities’ (2011). To assist in the assessment of proposals they should outline the significance of the building(s) or structure(s) and their settings and an assessment of how the proposed works would impact on that significance, include a detailed drawn survey of the building/structure identifying all surviving original/early and later features that may contribute to its significance and associated photographic survey, include a conservation focused method statement and specification of works, details of proposed works should be clearly identified on the accompanying survey drawings by way of colour coding and/or annotated notes to distinguish clearly between the existing structure, the proposed works including demolition of existing fabric and/or features. The colour coding should also show the provenance of the historic building, including identification of the various stages of its

development, identifying original, historic and later intervention. The detail required to be submitted will be dependent on the significance of the building and the nature and extent of works proposed. It may be of benefit to discuss specific Development Standards requirements, with an Architectural Conservation Officer, prior to making a planning application; through the pre-planning consultation process.

- Under Policy BHA9 the Council seeks to protect the special interest and character of all Dublin's Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Chapter 15.15.2.2 Conservation Areas requires all planning applications for development in Conservation Areas to 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, to protect the amenities of the surrounding properties and spaces, to provide for an assessment of the visual impact of the development in the surrounding context, to ensure materials and finishes are in keeping with the existing built environment and to positively contribute to the existing streetscape.

## **5.2. Natural Heritage Designations**

- None relevant to the subject matter of this appeal

## **5.3. EIA Screening**

- 5.4. Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- Appeal lodged against alterations sought by DCC under certain parts of Condition 7. It is commented that these seek substantial works to a completed development and that not all these alterations are necessary or beneficial;
- **Condition 7a)(i) external fan coil unit.** There are 3 fan coils in total. It was only possible to locate two in rear garden and thus one is in front garden. Evergreen hedge has since been planted. As it has established fan coil unit is no longer visible. The fan is part of a modern heating system which itself replaced bulky and inefficient electrical storage heaters with mostly surface fixed cables which detracted from the historic rooms. The unit is therefore part of a system which has enhanced the building and its impact on garden and streetscape is minimal;
- Notwithstanding this client willing to relocate unit to a less conspicuous location to lower patio level in front garden (see drawing of proposed location);
- **Condition 7a)(ii) relocation of meter and plant room.** Plastic green foliage will be removed. This was only temporary measure while planting and hedging established. Removal of structures are unnecessary as impact on protected structure and streetscape is minimal. Structure on lower patio level against boundary and has knapp render finish matching exterior wall of building. They are set to one side and do not obscure views of window at ground level;
- Reason for structures is to accommodate electrical and gas meters and water booster tank and new pump for lower ground floor heating system. Numerous other similar structures along street and where wheelie bins are stored in front garden. Indicates changing needs of building and service upgrades;

- Provision made in this case is in keeping and has resulted in removal of multiple internal meters and other service from historic rooms and resulted in a conservation gain;
- Notwithstanding above Appellant willing to reduce height of structures by 450mm (2 no. blocks) to further reduce any impact.
- **Condition 7a)(iii) Revised specification for the attic insulation (sheep wool or a cellulose insulation).** Appellant willing to change insulation if requested to do so. However Board asked to review this request;
- Roof to main building completely replaced c1980's and is entirely non original. Mineral wool insulation was incorrectly installed along roof plane within rafters. This was relocated and added to where necessary to a correct position at ceiling level to allow for roof ventilation. From environmental point of view it is not reasonable to remove a perfectly good product and send to landfill to satisfy DCC preference in a non original roof space.
- **Condition 7b) Isover Optima Insulation System to be removed from walls of rear return and lower ground floor and replaced if insulation required with calcium silicate board.** Appellant will remove system if required by Board. However system has NSAI Certificate for use in dry lining solid walls. Not logical to remove and send to landfill with a product that does not have a NSAI Certificate. Calcium silicate board system is fully adhered to an existing wall and is not therefore easily removed from historic walls and poses greater risk to historic plaster when being removed.
- **Condition 7c) panelling to be removed from historic principal rooms (reception rooms and bedrooms) and staircase and method statement to be provided for repair of historic plaster associated with removal.** Whilst this panelling may not have been original to the house it is not wholly inappropriate given that full height timber wall panelling was a common feature of 18<sup>th</sup> Century rooms. Although new (some non original panelling on stairs replaced) it is fully removable/reversible and should not be treated any differently to an item of fitted furniture or decorative wall lining. It is in keeping with principal of minimal /reversible intervention and can be removed in future with only minimal repairs to plaster being required;

- Quality of joinery is of highest standard with custom made mouldings/panels from solid timber for all panels and hand painted on site;
- Given extent of conservation works carried out and return to use as a single dwelling removal of panels would seem onerous and panelling designed so not to interfere with original cornicing. Fixings to original walls have been kept to minimum;
- Requested that Board remove the alterations requested to the completed works.

## 6.2. Planning Authority Response

- None on file.

## 6.3. Observations

- None received.

## 7.0 Assessment

7.1. The Board should note that this is an appeal lodged against certain of the requirements of Condition 7 of the DCC Notification of Decision to grant permission. I have considered therefore whether it would be appropriate for the Board to assess this appeal 'de novo' or, in the alternative given the provisions of Section 139 of the P&D Act 2000 (as amended), having regard to the nature of the condition or conditions, that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted.

7.2. I consider that there are significant issues arising which could lead to a not unreasonable conclusion that a 'de novo' determination might be warranted in this instance. These would include the important status of this building as a designated protected structure (recognised in the NIAH) within an important grouping of such structures in a prominent location in the Georgian Conservation Area. In addition the vast majority of the works subject of this application were unauthorised and the applicant has sought retention permission presumably following the enforcement proceedings initiated by DCC and which this application/appeal now seeks to

regularise. I note that the Applicants Conservation Report accompanying the original planning application to DCC opens by stating that it “has been prepared ... as part of an application for retention permission for works ....”.

- 7.3. It would seem that this work was initiated with little or no approach to the DCC Planning/Conservation Officers Departments. It is my opinion that ownership of such structures imposes a requirement for a significant degree of care, responsibility and compliance with statutory obligations due to the nationally recognised importance of such buildings where even small changes can substantially damage the building’s integrity. Clearly completing substantial works affecting the character and appearance of a protected structure without first obtaining the necessary permissions does not allow the DCC proper opportunity for oversight or for full in advance consideration of the justification or need for the full extent and nature of works undertaken. As an example I note still the absence of full and detailed photographic record of original window condition justifying their replacement (original photos stated to have been lost in a fire). A full Conservation Statement would only appear to have been provided to accompany the retention application rather than to support any meaningful pre planning dialogue with DCC Officers prior to the works being carried out. There is a clear difference of opinion remaining between the parties in the submissions in regard for example to the appropriateness of the panelling and its impact in a building of this era and which has been inserted throughout. Original fabric may have already been damaged/removed but the acceptability of any such loss cannot be established and this may be hidden by work carried out already. It would appear that the extent of works carried out including a contemporary single storey rear extension in an already small rear garden space has potentially imposed limitations on installation of plant associated with new services and pressure to introduce such in the front garden. The installation of the panelling, roof insulation and dry lining which are also matters of dispute in this appeal could have been the subject of pre planning discussion prior to their installation with their merits, possible alternatives and operational effectiveness considered in light of the building’s existing performance, character, construction materials and condition. Inspections of the original building condition and fabric by planning and conservation officers before work is completed can positively contribute to the project and avoid difficulties and misunderstandings. Indeed this is a statutory role foreseen, allowed



for and encouraged in relation to protected structures in the legislation and policy Guidance.

- 7.4. At my site inspection it was evident that much time, effort and resource has been spent on this building with some quality fittings installed. I would only conclude at this point that the carrying out of such works without the necessary statutory authorisations is entirely at the Owners own risk. It is my opinion that the Board should not be unduly influenced by the fact that works are already in situ (although the potential physical difficulty to building fabric that this presents should it be required to be removed is an issue). Should the Board decide that works carried out are inappropriate and do not accord with the principle of for example minimum intervention or respecting the building's integrity, historic character or appearance and, should they be left in situ following such a Board decision then this would be a matter for the planning authority to pursue through its enforcement powers should it be considered expedient.
- 7.5. I refer the Board in this respect to Section 6.14.2 of the Architectural Heritage Guidelines which states that 'where an application for retention of unauthorised works to a protected structure is lodged, a planning authority should apply the same consideration to the works as for planning applications and should, if considering granting permission, seek to ensure that the works for which retention permission is granted have the minimum possible impact on the character of the structure. Section 6.14.3 further states that 'Where in a particular case inappropriate works have been carried out, and in the opinion of the planning authority it is possible to restore its character by the carrying out of works, the authority could also consider refusing permission and using the enforcement provisions to require removal of the unauthorised works. Alternatively the planning authority could consider issuing a notice to require restoration of character'.
- 7.6. **Conclusion on use of S. 139:** I have carefully considered this matter. It is regrettable and unfortunate that the Parties find themselves in this position. I am cognisant though of the subsequent DCC Notification of Decision to grant permission overall and also that the Applicant was able to satisfy in the Further Information response some of the DCC detailed requests and requirements concerning work carried out to the main house and mews building and for that proposed to the fanlight. I would similarly support the general conservation principle that the best

use of a protected structure is that for which it was intended so the principle of returning the property to use as a single dwellinghouse is broadly to be supported. On this basis and having reviewed all the documentation on file and relevant national and local policy guidance I would conclude, on balance, that no further substantive issues arise and that the Board should use its powers under Section 139 and confine itself to the specific requirements of Condition 7 that were the subject matter of the appeal.

- 7.7. In my opinion therefore the main issues to be considered in this case are the appropriateness and necessity of the proposed amendments sought by DCC having regard to the integrity, special character and appearance, form and fabric of the protected structure and the historic streetscape in which it is located. I address each of the appealed requirements of Condition 7 separately below.
- 7.8. **Condition 7a)(i) external fan coil unit.** The front gardens to these protected structures are a relatively small but nonetheless important component to their character and appearance set behind railings. Chapter 13.5.1 of the Architectural Heritage Guidelines notes that ‘Proposals for new development within the curtilage of a protected structure should be carefully scrutinised by the planning authority, as inappropriate development will be detrimental to the character of the structure’
- 7.9. I would accept that modern requirements have imposed some demands on these important spaces including for example where wheelie bin storage is unfortunately prominent or for some modern service insertions. I do not however accept these as overriding precedents for this appeal and for this particular feature which must be considered on its own merits. I consider that the front gardens role as open space and in setting the buildings back from the road has not overall been compromised in this terrace and these spaces are still important characteristics of the buildings, their setting and the Georgian streetscape. They are key open spaces with an important relationship and function to the main buildings where as noted by the Conservation Officer inappropriate encroachment ‘can cause serious harm to the legibility and presentation of the front garden and the setting of the protected structure’.
- Notwithstanding the planting carried out and the Appellants conclusions it is my opinion that this exposed fan unit represents a significant, incongruous and harsh, modern feature encroaching in to the front garden which damages the setting of the protected structure due to its location, size, design and appearance. It is visible from

public views from Herbert Place itself and from the adjacent property No 21 and potentially from other houses in the terrace to the north. I consider a more discrete location would have been to the rear of the main building however I note the Appellants submissions in regard to the technical difficulties of this. I have also noted the Appellant's submissions to the conservation and visual benefits resulting from the removal of previous heating system elements from the building. Whilst I consider there may be some merit in this point I do not consider that it justifies the insensitive retention of this exposed plant to the front of this important protected structure in the Georgian Conservation Area. It is also probable that the construction of the contemporary single storey rear extension has itself imposed space limitations for siting of such plant encroaching as it has on to what was already a relatively small rear garden space.

- 7.10. The Appellants have offered to relocate this fan in the grounds of appeal to the retaining wall of the front lower patio facing the house. I consider however this would still not be an appropriate option for the siting of such exposed plant due to its visibility from the adjacent property and its prominence from and proximity to the front of No 21 itself. Due to its size the top of the fan may still be visible above the retaining wall although this is difficult to fully ascertain as full scaled drawings of this alternative have not been submitted with the grounds of appeal. **In conclusion I recommend that the Board should retain the general requirements of Condition 7a)(i) as set out in the Notification of Decision to have this fan removed to a more discrete location. I suggest however given the retrospective nature of the works that the condition be amended to impose time limits for the submission of the necessary details and for relocation of the fan following approval of its new siting by the planning authority.**
- 7.11. **Condition 7a)(ii) relocation of meter and plant room and removal of plastic green foliage.** The structure subject of this requirement is also located in the front garden projecting forward of the building line at this point by some 5 metres and max. width of approx. 1.5m. Overall height is shown on the drawings as some 2.6m. from ground level of the sunken patio. It is stated that the structure has been finished with a knapp render, granite capping and painted hardwood doors. Contained within this cabinet are doors gaining access to the plant and metre rooms accommodating electrical and gas meters, water booster tank and heat pump for the

lower ground floor under floor heating system. Similar arguments and issue arise in regard to this installation as to the fan coil unit considered above with the notable and obvious differences of scale, design and that the plant infrastructure itself is hidden internally within the cabinet enclosures. It is closer to the protected structure running from its front wall towards the street and like the fan coil unit located against the side boundary with no. 20. It still however encroaches in to the open space of the front garden and is visible from the public realm and adjoining property. As for the fan coil unit the Appellant has argued that benefits have arisen from removal of internal meters and other services from the historic rooms within the building as a result of these refurbishment works and new service installations. Notwithstanding the DCC/Conservations Office's objections I consider that this new structure is somewhat more sympathetic in design and appearance and reads more in keeping with the protected structure than the harsh industrial appearance of the exposed fan coil unit and successfully hides the services apparatus within the enclosures. It is still tall and bulky in context at the front of the building and as such is not ideal as additional built form in the open space to the front of the protected structure. The Appellants has offered to reduce its height by some 0.45m (2 blocks) which in my opinion would ameliorate somewhat its bulk to a point that, on balance, might be deemed acceptable in terms of its impact on the protected structure, its setting and the historic streetscape. I would also note the unfortunate use of plastic green foliage around the structure. This is inappropriate and should be removed entirely. Planting already carried out would as it grows provide some softening and screening of the structure however I consider that this plastic foliage should be replaced with a natural climbing plant variety to ameliorate the structure's built form at this location.

**In conclusion I would recommend, on balance, that the DCC requirement to remove this structure as set out in Condition 7a) (ii) be deleted to allow for its retention but that the condition be amended to require its reduction in height and retaining the removal of the existing plastic green foliage but with an alternative natural climbing plant replacement to give further natural screening. The amended condition should include a timeline for this work and removal of the existing plastic foliage, the submission of details of the alternative natural screening and for its implementation once approved by the planning authority.**

- 7.12. **Condition 7a)(iii) Revised specification for the attic insulation (sheep wool or a cellulose insulation).** The DCC Conservation Officer does not question the principle of provision of roof insulation but its nature suggesting alternative, more traditional materials. On the question of use of appropriate materials the Architectural Heritage Guidelines state that ‘only appropriate materials and methods should be used in works to a protected structure..... and .... ‘The use of modern materials and techniques should only be permitted where their appropriateness is supported by firm scientific evidence or where they have proved themselves over a sufficient period and where traditional alternatives cannot be sourced’. It is also stated that ‘When dealing with planning applications for works to a protected structure, materials, details and specifications for works should be approved by the planning authority prior to the commencement of any works’. Clearly the retrospective nature of this application meant that this did not happen in this case.
- 7.13. In the detailed guidance, Chapter 9.5.1 states ‘The insulation of a traditional roof can have far reaching effects on the way in which the roof performs. The performance of a traditional roof was designed to rely on the ventilation of the roof space by the movement of air through gaps between the slates and tiles ....Insulation of a traditional roof to enhance energy efficiency will generally bring about the need for additional ventilation, requiring alterations to the eaves and ridge or the addition of vents in order to prevent the timbers within the roof space from being damaged through excessive moisture build-up and condensation..... insulation of the roof space should only be undertaken where it can be achieved without damage to the fabric and appearance of the roof..’..
- 7.14. The case made by the Appellant includes that this entire roof structure and covering was replaced in the 1980’s including new roof timbers, sarking felt, battens, reconstituted slates and modern foil backed plaster board ceilings. The mineral wool insulation had however been installed incorrectly in the roof plane so the Appellant relocated the existing insulation and added to it above the ceiling allowing for ventilation within the roof void. The Appellant has stated in the grounds of appeal that this DCC requirement will be complied with should the Board request however feels it to be unnecessary and environmentally unsustainable to remove a good product to landfill.

7.15. In my opinion there was some merit in the actions of the Appellant in the relocation of the mineral wool insulation. There is still however an absence of detail concerning the condition of the roof when this was done, the extent of the new mineral wool insulation required to complete the work. I consider however that the requirements in regard to use of traditional materials in such circumstances and in such buildings are clear, reasonable and appropriate. Every opportunity must be given to allow the building to 'breathe' and for air circulation to occur within the roof void. Policy of the Council also seeks to conserve and enhance protected structures. I consider that the removal of the existing insulation and insertion of a more traditional and appropriate for age of building overall form of roof insulation would be entirely consistent with the long term conservation and enhancement of the building fabric notwithstanding the replacement of the roof in the 1980's. This accords with the sympathetic approach encouraged in Guidance, required by the DCC Conservation Officer and would in my opinion be in the long term interests of the character, fabric and integrity of the building. It is also not unreasonable to conclude that careful removal of the existing mineral wool insulation could result in its re-use elsewhere. **In conclusion therefore I consider that this general requirement should be retained but that the Condition 7a)(iii) be amended to provide time limits for the removal of the existing insulation, submission of details of the replacement insulation and subsequent implementation in the roof once approved by the planning authority given the retrospective nature of the application/appeal.**

7.16. **Condition 7b) Isover Optima Insulation System to be removed from walls of rear return and lower ground floor and replaced if insulation required with calcium silicate board.** The details lodged with this application and appeal state that this proprietary dry lining system has been installed as new construction to the lower ground floor internal front and rear walls, lobby and WC and to the internal walls of the three storey rear return. The plans lodged also however indicate its use at third floor level to bedroom 4 and its ensuite. I have carefully read the details provided by the Appellant in regard to this system and have also noted that it has been Certified by the NSAI. It is described as a breathable dry lining system to improve thermal insulation performance with the benefit of air tightness. It consists of cold formed wall lining floor and ceiling channel sections, polyamide support

brackets, clips and connectors, Isover glass mineral wool insulation, Isover intelligent membrane and plasterboard linings. It can be used on the internal face of external walls such as brick or blockwork masonry walls.

7.17. The Appellant suggests a lack of logic of seeking its removal and concerns in regard to use of a calcium silicate boarding system as a replacement which could impact to a greater extent on the original wall linings although agrees to replace it should the Board require.

7.18. I refer the Board again to comments in the Architectural Heritage Guidelines which promotes concepts of minimum intervention and emphasising that blanket application of standard solutions to historic buildings is not appropriate, nor can old buildings be expected to perform in the same way as modern buildings in terms of structural strength, durability of materials or thermal insulation. Further it emphasises use of appropriate materials and methods for works to protected structures and states that the use of modern materials and techniques should only be permitted where their appropriateness is supported by firm scientific evidence or where they have proved themselves over a sufficient period and where traditional alternatives cannot be sourced. In regard to the Building Regulations the Guidance indicates that compliance with such in historic buildings may present particular problems and approaches other than those contained in the TGDs may be appropriate in order to protect the character of the building. In the interest of conserving the character of buildings of outstanding architectural and historical importance, the enhanced thermal performance requirements introduced in the 2002 amendment to the Building Regulations do not apply to works (including extensions) to existing buildings which are protected structures or proposed protected structures under the Planning and Development Act 2000. It also cites the guidance in the TGD's that the provision of insulated dry lining to walls and basements should be carefully assessed for their material and visual impact, should not disrupt historic plasterwork and should not introduce further moisture in to the building.

7.19. In my opinion based on the submissions available there is insufficient evidence for me to conclude at this point that the addition of this dry-lining system has adversely affected important internal features of interest such as cornices, wall panelling, skirtings, window cases and doorcases or decorative finishes.

7.20. I would however share the DCC concerns in regard to the both the need for and long term durability and effectiveness of this system in this particular structure. It appears to me that in the grounds of appeal the Appellant has not responded in detail to the query raised by the DCC Conservation Officer concerning the systems hygroscopic properties in relation to this specific building and its construction nor to the comment that in the case cited in Kilkenny a condition imposed on that decision omitted elements of the system including the mineral wool and Gyproc finishing layer. I also consider there is an absence of detailed assessment in regard to the need for this intervention in the building's fabric. The documentation available does not in my opinion fully illustrate the previous condition of the walls where this lining has been inserted nor its existing thermal or moisture handling capacity, 'breathability' 'permeability' and efficiency. I note from the Isover NSAI document that the installation of the system requires prior remedial action to external walls should any signs of defect, moisture ingress, mould growth, etc be established and an evaluation of the existing external wall substrate amongst other matters. Nothing appears on the file to suggest these were concerns at the time of the installation of this dry lining system. Further, in a statement made in the Appellants response to the FI request it is stated (in regard to specification and methodology for plasterwork repairs carried out) that " All rooms to the building were dry and existing plaster was in good condition. There was no instances or evidence or water ingress either prolonged or otherwise as would have resulted in the necessity for major areas of plaster replacement..."

7.21. I accept that the NSAI Certification provides confirmation of compliance with Building Regulations (subject to the work being carried out with all the proviso's set out). However this is not the overriding consideration here a fact recognised by the Architectural Heritage Guidelines in the sections quoted above. This also states that "In granting planning permission, a planning authority should be satisfied that works are necessary, whether these be repair works to the fabric of the building or adaptations to the structure to allow it to perform a new or enhanced function" . There are other more traditional methods of providing greater thermal efficiency and protection from moisture penetration, damp and mould in historic buildings should these be required. The Conservation Officer has suggested one such option should this be considered necessary. I consider that the need for the installation of this



proprietary system has not been justified. I consider that its long term efficacy has not been fully demonstrated in the submissions made having regard to the specific age, condition and form of construction of this protected structure. As such it constitutes an inappropriate insertion in to the building with potential long term and adverse consequences for the building's fabric and durability. Neither has it been demonstrated that it is justified given the building's condition, thermal efficiency and moisture handling capacity prior to the works being carried out. As a consequence its installation does not in my opinion comply with guiding conservation principles of minimum intervention, analysis of the building and use of appropriate materials and techniques. **In conclusion therefore I consider that this general requirement should be retained but that the Condition 7b) be amended given the retrospective nature of this application/appeal to provide time limits for the removal of the Isover Optima Insulation System and for its replacement should it be considered necessary with an alternative system that has been previously approved by DCC.**

- 7.22. **Condition 7c) panelling to be removed from historic principal rooms (reception rooms and bedrooms) and staircase and method statement to be provided for repair of historic plaster associated with removal.**
- 7.23. It is evident that new panelling has been inserted throughout the main building. In the FI response the Appellant clarified the locations which included stairwell to lower ground floor 1.7m. high, entrance hall and stairwell to ground floor 1.25m high, reception rooms 1 and 2 ground floor 2.9m high, stairwell first to second floor 1.25m high, wall to rear of bed first floor master bedroom 3.5m high, stairwell first to second floor 1.25m high, bedroom side of wall to new ensuite to bedroom 3 on second floor 2.4m high, new wall/wardrobe separating bedroom 4 and ensuite on third floor. It is noted that the panelling to bedroom 3 on second floor are new walls not extending to ceiling level and in bedroom 4 at third floor level located on a new wall separating the bedroom from the cupboard/ensuite. Images of these timber panelling features are contained in the Conservation report and a drawing giving typical detail of the panelling was provided in the Further Information response.
- 7.24. There is a clear difference between the parties concerning the suitability of and preference for this panelling in a building of its era. The NIAH description gives its constructed as c.1815. It is the Appellants contention that whilst timber wall

panelling may not have been an original feature in the house it is not wholly inappropriate to install same given that full height timber wall panelling was a common feature of the early 18<sup>th</sup> century. It is stated that although new (it did replace some non original panelling to the stairwell) the panelling is removable/reversible and should not be treated any differently to fitted furniture or kitchen units. Quality of the joinery is also stated as being of the highest order.

- 7.25. Based on the information available including the submissions of the DCC Conservation Officer it is reasonable to conclude on the balance of probability that such panelling was not a typical feature or original to this house. The Conservation Officer states that the building dates from the early nineteenth century and that by 1760 it was rare for any walls to be panelled. I refer the Board to images provided in the Conservation Report a number of which illustrate walls with absence of panelling. In regard to the method of installation the Conservation Officer comments that the installation guide contained within the product brochure provided with the Further Information response suggests that the panelling has been fixed to the historic walls using metal c channels although no details were provided on the condition of the underlying plaster. **(Board should note that this brochure does not appear on the Boards file amongst the FI provided by DCC).**
- 7.26. At my site inspection I was able to gain access to the rooms of the house and view this panelling in situ. The panelling was not unattractive in itself and, in a different context and situation might be considered a notable addition to the internal features of a room. I would also not wish to question the craftsmanship involved. However this is a protected structure where overriding conservation principles apply. Whilst the lower height panels particularly those to the stairwells appear more discrete the taller panels inserted in to the main reception rooms and bedrooms have a much more significant, prominent and imposing impact on the rooms character and appearance. On the second and third floors also although placed on new partitions they themselves are part of fairly significant interventions in to the original plan form of the rooms to provide ensuite accommodation and storage space. Clearly Guidance and policy does not prohibit new interventions in to a protected structure but such modern interventions should make a positive contribution to its character and appearance as a modern addition whilst maintaining and enhancing its original identity and integrity. Such matters do inevitably stray into the realm of personal

taste. I consider however that the installation of this tall panelling, particularly in the main reception rooms and bedrooms does not meet these core principles and has interfered substantially with the legibility of what would have been the original somewhat simpler internal character and appearance of the walling of the rooms and spaces concerned. This would, in my opinion, be an inherent and important historic characteristic and feature of this building to be respected as part of its history and legibility. In addition although retaining ornate plaster cornice and refitted skirting the tall panelling has also set up a somewhat clumsy juxtaposition with the ornate plaster cornice detailing.

- 7.27. Other than to the comments I have referred to previously in this report there is little further detailed analysis in terms of building fabric and condition of the original plaster walls on to which this panelling has been installed. I consider that there is insufficient information to demonstrate that before formulating the proposals the developer fully researched its historical development and understood thoroughly the present condition of the structure and its important internal characteristics. I note that in regard to internal linings the Architectural Heritage Guidelines state that 'The walls and partitions in historic buildings may often be of interest in themselves and include examples of rare or interesting construction methods ....Historic plasterwork should be identified and protected wherever possible. Not only decorative wall and ceiling plaster, but also plain, flat plasterwork are important parts of the internal fabric of a protected structure'.
- 7.28. I am not convinced that the installation of this panelling in this particular case complies with principles of minimum intervention or avoidance of over-restoration of historic buildings which can be detrimental to their character and value. The Architectural Heritage Guidelines state that 'Old buildings both charm and inform for the very reason that they are old.... Conjectural restoration of a protected structure, or part of a structure, should generally only be permitted where there is sufficient physical or documentary evidence of the earlier state of the structure or element or where restoration is necessary to enhance the appreciation of other elements that contribute to the character of the structure .... The practice of 'restoring' a building or structure to an appearance at some notional date in its history should generally not be permitted ...'.

7.29. I am particularly conscious of the time and resources that would have been utilised in the installation of this panelling. However as already referred to in this Assessment the fact that the works have been carried out is not the primary consideration in determining the merits of these works that materially affect the character and appearance of this protected structure. **I recommend in conclusion that this general requirement should be retained but that the Condition 7c) be amended given the retrospective nature of this application/appeal to provide time limits for a method statement to be provided to DCC for repair of historic plaster associated with removal of the panelling to the principal rooms and bedrooms (only) and for removal of the panelling once the method statement has been approved by DCC.**

#### 7.30. **Appropriate Assessment Screening**

7.31. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/, the nature of receiving environment as a built up urban area and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

### 8.0 **Recommendation**

8.1. I have considered all the other matters raised but it seems to me that they are no so material to the consideration of the merits of this case to warrant reaching a different recommendation to that set out above and below. In conclusion I recommend that the Board deal with this appeal under the provisions of S.139 of the Planning and Development Act 2000 (as amended) and on the basis that the determination by the Board of the application as if it had been made to it in the first instance would not be warranted. I recommend that the Board gives to the Dublin City Council directions as set out below relating to the amendment of the conditions subject of this appeal.

## 9.0 Reasons and Considerations

Having regard to:

- The protected structure status of the building subject of this appeal located within the Georgian Conservation Area as designated in the current Dublin City Development Plan,
- The provisions of the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and the Dublin City Development Plan 2022-2028
- the submissions lodged with the application and appeal and
- the conditions subject of this appeal

it is considered that subject to the amendment of the conditions subject of the appeal as set out below, the development would not detract from the character, appearance, integrity or setting of the protected structure or the historic streetscape in which it is located and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions:

### **Condition 7a)(i): Condition to be AMENDED as follows**

Within three months of the date of this Order revised plans showing a relocation of the external fan coil unit currently located within the front garden to a less sensitive and inconspicuous location shall be submitted to, and approved in writing by the planning authority. The fan coil unit shall be relocated to its approved location within one month of receiving such written approval.

### **Condition 7a)(ii) Condition to be AMENDED as follows:**

Within three months of the date of this Order details showing the reduction in height of the meter and plant room by 0.45 metre (two blocks) and a landscaping scheme including for the removal of the plastic green foliage around the meter and plant

room and its replacement with natural planting of species to be agreed shall be submitted to, and approved in writing by the planning authority. The meter and plant room shall be reduced in height and plastic green foliage shall be removed within one month of the date of receiving written approval of the details and landscaping scheme and the natural planting shall be carried out within the first planting season following written approval.

**Condition 7a)(iii) Condition to be AMENDED as follows:**

Within three months of the date of this Order a scheme for the removal of the existing mineral wool insulation and a revised specification for replacement attic insulation shall be submitted to, and approved in writing by the planning authority. Such specification shall include for a sheep wool or a cellulose insulation replacement only. The existing mineral wool insulation shall be removed and its approved replacement shall be installed within one month of receiving written approval of such scheme.

**Condition 7b) Condition to be AMENDED as follows:**

Within three months of the date of this Order a scheme demonstrating the methodology for the removal of the Optimal Internal Wall Insulation system and reinstatement of the walls shall be submitted to, and approved in writing by the planning authority. Should a replacement wall insulation be required in these locations a calcium silicate board shall be used or such other material that has been previously approved in writing by the planning authority. The scheme shall indicate the methodology for installation of any such replacement wall insulation should this be required. The Optimal Internal Wall Insulation shall be removed and walls reinstated or the approved alternative replacement wall insulation shall be

implemented in accordance with the agreed scheme within one month of receiving written approval of such.

**Condition 7c) Condition to be AMENDED as follows:**

Within three months of the date of this Order a method statement shall be submitted to, and approved in writing by the planning authority for the removal of the timber panelling from the principal historic rooms (reception rooms and bedrooms). This statement shall include a methodology for the restoration and repair of the historic plaster associated with the removal of the panelling. The timber panelling shall be removed and walls reinstated in accordance with the approved method statement within one month of receiving written approval of such.

Reason : To ensure that the integrity of the protected structure and historic streetscape is maintained and that the propose repair works are carried out in accordance with good conservation practice with no unauthorised or unnecessary damage or loss of building fabric

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Philip Green  
Planning Inspector

22<sup>nd</sup> August 2023