



An
Bord
Pleanála

Inspector's Report

ABP-315328-22

Development	Planning permission is sought for a new detached part two storey, part single storey mews house and all ancillaries to site works.
Location	Windsor Lane/Rear of 16 Fairview Avenue Lower, Fairview, Dublin 3.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	WEB1878/22
Applicant(s)	Stephen Connolly.
Type of Application	Planning Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellant(s)	Stephen Connolly.
Observer(s)	Fred Reid.
Date of Site Inspection	9 th day of March, 2023.
Inspector	Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. The appeal site has a given site area of 150m² and once formed part of the curtilage of No. 16 Fairview Avenue Lower, a period three storey building with three storey rear return. In its current state the appeal site can be described as an unkempt parcel of brownfield land with no buildings thereon and that has no apparent functional use. It is located in the city suburb of Fairview, just under 3km to the north east of Dublin's city centre.
- 1.2. No. 16 Fairview Avenue Lower has at some point in time been internally subdivided into multiple dwelling units. In addition, the appeal site has been subdivided from its historical curtilage by a tall solid boundary wall with no connections between the two. The southern boundary of the appeal site consists mainly of a tall solid wall in a poor condition, which aligns with the public carriageway of Windsor Lane with this boundary at its nearest located c13m from Windsor Lane's junction with Fairview Avenue Lower. At this point the carriageway contains a restricted in width pedestrian footpath and at the easternmost point the roadside boundary contains a tall ad hoc in construction and material gate structure.
- 1.3. At the time of inspection, the width of the lane is further restricted by *ad hoc* on public carriageway car parking.
- 1.4. The site is bound on its northern side by private amenity space. On its western side by a private car parking area that serves a three-storey residential building containing multiple dwelling unit's residential dwellings and a storage structure that predominantly functions as a waste storage area.
- 1.5. The surrounding area has an established residential character. The site is located close to public transport, services, and a variety of amenities.

2.0 Proposed Development

- 2.1. Planning permission is sought for a detached part two storey part single storey mews house together with all associated site works and services.
- 2.2. I note to the Board that the site application form identifies the total site area as 150m² whereas the 'Planning & Design Supporting Statement' states that it has a smaller

total site area of 144m². The accompanying documentation includes a document titled 'Stormwater Disposal Design BRE365/SuDS'.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 15th day of November, 2022, the Planning Authority refused permission for the following single stated reasons:

“The proposed mews house would be sited an inadequate distance from the rear elevation of No. 16 Fairview Avenue Lower such that the building would have a severe overbearing and overshadowing impact on No. 16 as well as a significant impact on the aspect enjoyed by that property. The proposed development would cause serious injury to the residential amenities of the area as a result and would, in itself and by the precedent established for such development immediately proximate to the rear of existing dwellings, be contrary to the policies and objectives of the current Dublin City Development Plan and the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

- 3.2.1. Planning Reports

The Planning Officer's report considered:

- The proposed dwelling would not have a satisfactory level of natural light to its interior spaces.
- This is not considered to be a typical mews dwelling given that little space remains to the rear of No. 16 Fairview Avenue Lower.
- The bulk and visual intrusion of the mews dwelling proposed on 16 Fairview Avenue Lower would be considerable. With this conclusion based on the impact it would have on daylight, aspect, and its overall general residential amenity.
- The proposed dwelling is unduly proximate to the rear of No. 16 Fairview Avenue Lower.

- Concern is raised that, if permitted, the proposed development would give rise to an undesirable precedent.
- Proposed development is not consistent with Development Plan requirements.
- Recommends refusal.

3.2.2. Other Technical Reports

Drainage: No objection, subject to standard safeguards.

Transportation: Further information sought. The following points are noted from this report:

- Windsor Lane is taken-in-charge by the Council and there is a narrow section of footpath along part of the east-west section of the lane. It is evident that vehicles encroach on this narrow section of footpath to park on occasions.
- Windsor Lane provides access to the rear of properties fronting onto Fairview Avenue, Windsor Avenue and Fairview Strand, as well as access to garages a number of which operating commercially and there is uncontrolled car parking along it.
- There is a public lighting stand immediately adjacent the site. This would require relocation.
- Windsor Lane varies in width ranging from 3.9m at the lane entrance arch on Fairview Avenue to a maximum width of 5.9m along sections to the north south section.
- A minimum width of carriage is required under the Development Plan and as such the front building line of the subject development on Windsor Lane should be setback so that the public carriage width is a minimum of 5.5m. Other recent mews developments were required to provide this.
- The lack of car parking provision is deemed acceptable in this case.
- Traffic management details would be required.
- Damage to the public carriageway should be at the applicant's expense.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

- 3.4.1. During the Planning Authority's determination of this planning application two Third Party Observations were received. I consider that the key issues raised correlate with those received in the Third Party's Observation received by the Board. In addition to this I note that one of the observers indicate that there are inaccuracies in the drawings with their property incorrectly identified.

4.0 Planning History

4.1. Site – Recent & Relevant

- **P.A. Ref. No. WEB 1232/22**

On the 10th day of May, 2022, planning permission was **refused** for a new detached two storey mews house, with new vehicular access and ancillaries to site, for the following stated reasons:

- “1. *The proposed mews house would be sited an inadequate distance from the rear elevation of No. 16 Fairview Avenue Lower such that the building would have a severe overbearing and overshadowing impact on No. 16 as well as a significant impact on the aspect enjoyed by that property. The proposed development would cause serious injury to the residential amenities of the area as a result and would, in itself and by the precedent established for such development, be contrary to the policies and objectives of the current Dublin City Development Plan and the proper planning and sustainable development of the area.*
2. *The proposed mews house would have first floor windows to habitable rooms at insufficient distances from adjoining properties while the use of vertical louvres would not substantially prevent overlooking from these windows such as to cause serious injury to the residential amenities of properties in the vicinity and the proposed development would therefore, in itself and by the precedent established for windows at an inadequate distance to boundaries, be contrary to the policies and objectives of the current Dublin City Development Plan and the proper planning and sustainable development of the area.*

3. *The proposed mews house would have its private open space set out to the north of the building. This area would, due to the proximity of the rear windows of No. 16 Fairview Avenue Lower, be extensively and intrusively overlooked and would not provide an appropriate level of privacy for future residents. The proposed development would, in itself and by the precedent established for heavily overlooked private open space, cause serious injury to the residential amenities of the area. The proposed development would therefore be contrary to the policies and objectives of the current Dublin City Development Plan and the proper planning and sustainable development of the area.”*

4.2. In the vicinity – Recent & Relevant Board Decisions

- **ABP-315963-23 (P.A. Ref. No. WEB1832/22) - Site to rear of 13 Windsor Avenue on Windsor Lane**

Concurrently with the Board for its determination is the Planning Authority’s decision to grant permission for a 79m² 2-bed, 2.5-storey mews dwelling and all associated site works.

- **ABP-314956-22 (P.A. Ref. No. 3928/21) – Site to rear of 11 Windsor Avenue, on Windsor Lane**

Concurrently with the Board for its determination is the Planning Authority’s decision to grant permission for the provision of a 97.5 sqm 2-bed, 2.5 storey mews dwelling and all associated site works.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Dublin City Development Plan, 2022-2028, is the operative City Development Plan. The site is zoned ‘Objective Z1’ which seeks ‘*to protect, provide and improve residential amenities*’.
- 5.1.2. Section 15.13.5 of the Development Plan deals specifically with mews type developments.
- 5.1.3. The site is located in Parking Area 2 of Map J of the Development Plan. This type of development requires the provision of one car parking space.

5.2. Natural Heritage Designations

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

5.3. EIA Screening

- 5.3.1. Having regard to the modest nature and scale of the development proposed, the site location within an established built-up serviced urban area which is outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The First Party grounds of appeal can be summarised as follows:
- The Board is requested to set aside the Planning Authority's decision and grant permission for the proposed development as sought in the application made. However, if this development is not deemed acceptable by the Board a revised proposal is sought in its place. This revised proposal is contended to address the Planning Authority and Third-Party concerns with the original proposal.
 - The revised proposal consists of a 2-storey 2-Bedroom 3-Person dwelling (Note: a floor area of 70m²) that has revised façade and a more subordinate built form. It includes one car parking space and a bin store on the eastern side of the site.
 - The proposed development is a high quality and appropriately scaled. It would provide a high standard of residential amenity for future occupants.
 - The proposed development accords with planning provisions.
 - The proposed development would enhance the lane's streetscape.

- No overbearing and/or any undue residential or visual amenity impacts to properties in its vicinity would arise from the proposed development.
- This proposal addresses the reasons for refusal of permission for planning application P.A. Ref. No. WEB1232/22.
- The site is located in a well-served and well-established residential area.
- A planning history overview of the site, setting and examples of precedents for similar developments is provided.
- The Development Plan permits reduced separation distances between developments in certain circumstances.
- There are no windows with clear glass addressing other properties.
- Similar in nature, scale and design developments have been permitted within the city.
- Minimal additional overshadowing would arise from the proposed development on properties in its vicinity.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. The Third-Party Observation can be summarised as follows:

- The proposed development is objected to on the same basis as the previous development was refused. Since the previous application was refused Windsor Lane has further deteriorated with rubbish bins associated with the multiple dwelling units of No. 16 Fairview Avenue Lower permanently kept on the lane. This results in obstruction and nuisances for users of the lane including hindering access for emergency and service vehicles.
- It is sought that the Board uphold the Planning Authority's reasons for refusal.
- The numerous applications are becoming both frivolous and wasteful of time as well as resources.

6.4. Further Responses

6.4.1. None.

7.0 Assessment

7.1. Overview

7.1.1. I consider the substantive planning issues that arise in this appeal case are:

- Principle of the proposed development
- Impact on the visual and residential amenity of the area
- Traffic/Car Parking
- Undesirable Precedent
- Other matters arising

7.1.2. I note that since the Planning Authority made their decision to refuse planning permission for the development sought under this application on the 15th day of November, 2022, the Dublin City Development Plan, 2022-2028, was adopted. This is the operative Development Plan under which the Board must make its determination.

7.1.3. I also note that the First Party though seeking that the Board overturn the decision of the Planning Authority to refuse planning permission for the development sought under this application has submitted a revised proposal. This revised proposal seeks to address the Planning Authority's reasons for refusal as well as the concerns raised by Third Parties to the original proposal. They therefore seek in the event that the Board should conclude with similar concerns to the Planning Authority that would then warrant refusal that they then consider the revised proposal put forward with the appeal submission.

7.1.4. In this case I consider that the revised proposal albeit providing a more modest in-built form, height, mass, scale, and bulk mews dwelling puts forward a significantly different proposal in terms of it for example now including the provision of an off-street car parking space on site accessed from the restricted in width Windsor Lane.

- 7.1.5. In my view, this in itself gives rise to new issues for consideration given the existing deficiencies of this lane alongside the quantum of properties, including not just residential properties but also a number of commercial properties that are solely dependent upon it for access onto the public domain and the wider public road network.
- 7.1.6. In addition, the roadside boundary of the site at its nearest point is c14m from Windsor Lane's junction with Fairview Avenue Lower at a point where vehicle and vulnerable person's movements are dependent on access through a restricted in width arch (Note: 3.9m). With this width at the time of inspection further reduced by the storage of bins and the overflowing of their content.
- 7.1.7. Alongside this the carriage width of Windsor Lane contains a restricted in width stretch of footpath and a light standard immediately adjoining the roadside boundary. With movements on this lane, as observed during site inspection, obstructed by *ad hoc* parking. Like the original application there is no clarity provided on the impact the proposed development would have on these with the light standard not indicated in the submitted drawings.
- 7.1.8. Moreover, the entrance to the off-street space would also be situated in proximity to another vehicle entrance on the opposite side of Windsor Lane and in close proximity to the entrance serving the adjoining property to the west. The latter serves multiple units. Views like that for the proposed entrance serving the car parking space in the revised proposal onto the public domain are like that of the entrance opposite and at the junction of Windsor Lane and Fairview Avenue Lower restricted. No auto-track analysis accompanies this revised design. I also note that there is also no pedestrian footpath on the opposite side of the lane with a number of pedestrian access points onto the lane also present and the lane itself largely functions as a shared surface.
- 7.1.9. Of further note the Development Plan under Section 15.13.5.4 on the matter of access and parking in mews lane sets out that each development must provide adequate accessibility in terms of private vehicular movements, emergency vehicles and refuse vehicles. Where access cannot be provided, an access and movement strategy must be provided to justify that the development can be adequately served. I also note that Section 4.3.8 Volume 2 of the Appendices reiterates this and sets out a minimum carriageway of 4.8m and 5.5m. With the latter being in the case of situations where

no verges or footpaths are provided. In circumstances where these widths cannot be provided it sets out that safe access and egress for all vehicles and pedestrians must be demonstrated.

- 7.1.10. I therefore consider that the traffic and access considerations of the revised design are materially different to that of the original proposal sought from the Planning Authority.
- 7.1.11. In addition, it is also my considered opinion that when taken altogether the revised design proposal if the Board were to make a determination on it, this would give rise to public participation concerns that would need to be addressed through the provision of revised public notices.
- 7.1.12. For the reasons set out above and for clarity purposes my assessment below is based on the proposed development as submitted to the Planning Authority on the 21st day of September, 2022, only.

7.2. Principle of the proposed development

- 7.2.1. Historically this appeal site formed part of the curtilage of No. 16 Fairview Avenue Lower and comprised its main rear garden area. At some point in time No. 16 Fairview Avenue Lower has been subdivided. This has resulted in a situation whereby there is minimal rear private amenity space remaining at No. 16 Fairview Avenue Lower for occupants of the multiple dwelling units it appears to contain to enjoy. At its nearest point the rear annex of No. 16 Fairview Avenue Lower is situated less than 1m from the western side boundary of the site with the main rear elevation having a variable lateral separation distance to the western boundary which at its widest point is just below 4.12m in width.
- 7.2.2. According to the documentation provided the site and No. 16 Fairview Avenue Lower are in separate ownership. With the site itself in its current state unkempt, containing ad hoc items dumped within it and with no apparent current or recent functional use.
- 7.2.3. Despite this separate land use circumstance and the First Party's considerations that the site is an 'infill' site and should be considered as such in the determination of any planning application on it, notwithstanding these contentions, I concur with the Planning Authority's Planning Officer that the development proposed under this

application is a mews type development as provided for under the Development Plan including Section 15.13.4 and 15.13.5.

- 7.2.4. The site is situated on a larger parcel of land that is by and large characterised by residential development. This is reflected in its land use zoning under the Development Plan as '*Sustainable Residential Neighbourhoods - Z1*'. The stated objective for such land is: "*to protect, provide and improve residential amenities*". Residential development is deemed to be permissible subject to safeguards.
- 7.2.5. Of further note, Section 15.13.5 of the Development Plan which deals with the matter of mews development sets out that the Council are generally favourable towards such developments subject to compliance with normal planning criteria.
- 7.2.6. In addition, the Development Plan positively supports the efficient and compact use of land in the city including vacant and underutilised lands also subject to compliance with normal planning criteria.
- 7.2.7. There is also capacity in the public water and foul drainage to accommodate the demands this quantum of development would generate.
- 7.2.8. Based on the above I consider the general principle of the proposed development to be acceptable subject to safeguards.

7.3. Impact on the visual and residential amenity of the area

- 7.3.1. The Planning Authority in their given reason for refusal consider that the proposed mews dwelling as a result of the inadequate distance from the rear elevation of No. 16 Fairview Avenue Lower would have a serious overbearing impact on it. The appellant does not consider that the proposed development would result in any overbearing visual amenity impact on its setting. Including No. 16 Fairview Avenue Lower. It also considers that the proposed development, if permitted, would give rise to undue residential amenity impact for No. 16 Fairview Avenue Lower on the basis of adverse overshadowing. For these reasons it was considered that the proposed development would fail to accord with the proper planning and sustainable development of the area.
- 7.3.2. They contend that the proposed detached dwelling together with its contemporary design, built form, relationship with other structures in its vicinity through to the palette of materials, finishes and treatments would sit appropriately in its visual context.

- 7.3.3. They also contend that, if permitted, it would result in the visual enhancement of Windsor Lane's streetscape scene.
- 7.3.4. In terms of visual amenity, the use of a contemporary approach to the design resolution, overall façade treatments through to use of material, is one that is supported by the Development Plan in this type of urbanscape. In this regard I note that Section 15.13.5.1 of the Development Plan whilst advocating a unified approach to the development of residential mews lane as opposed to ad hoc proposals states that high quality contemporary designs will be considered. It states that: "*the materials proposed should respect the existing character of the area and utilise a similar colour palette to that of the main structure*".
- 7.3.5. On this point the submitted drawings do not set out to demonstrate that the contemporary palette of materials, colours and finishes would be respectful to the existing character of the area. In particular adjoining properties of No. 16 Fairview Avenue Lower. Notwithstanding, I did observe that there is a variety of architectural styles of variable quality present along Windsor Lane. This lane itself is not subject to any type of visual amenity protection. Later developments including those not forming part of the immediate visual scene that includes the southern boundary of the site have an *ad hoc* character. They lack the more coherent and uniformity that defines Fairview Avenue Lower, Windsor Avenue and Fairview Terrace.
- 7.3.6. In this context there is potential, in my view, for the more contemporary palette of materials indicated in the submitted drawings, in particular the elevational treatments addressing Windsor Lane and the first-floor element, to be respectful of its setting as well as sympathetic qualitative external treatments, finishes, colours and patina could reduce the visual apparentness of the proposed dwelling. A dwelling that is not setback from Windsor Lane, has minimal setback as discussed from the rear of No. 16 Fairview Avenue Lower and would have a maximum ridge height at 7.02m that would exceed the eaves height of this adjoining residential building. This could be achieved by way of written agreement with the Planning Authority should the Board be minded to grant permission.
- 7.3.7. In terms of the overall height of the first-floor element I raise a concern that its built form, in its context with adjoining properties lacks appropriate subordination.

- 7.3.8. On this concern I note that Section 15.13.5.2 of the Development Plan states that: “*new buildings should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth...*”. It further states that: “*the height of mews buildings should not negatively impact on the views from the main property*” and that “*development will generally be confined to two-storey buildings*”.
- 7.3.9. As set out previously the proposed dwelling, which is a part single and part two storey L-shaped structure, would have a maximum ridge height of 7.02m. The two-storey element would address the southern roadside boundary with this boundary having a given width of 12.1m and has a gable shaped built form. The first-floor element has a width of 6.08m and is positioned where it commences on the western boundary of the site. It has a width of 4.36m. The drawings appear to suggest that the southern, western, and eastern facades of the proposed dwelling would be constructed within the redline area of the site and existing eastern, western, and northern boundaries would remain *in situ*. The single storey element forms part of the south eastern corner of the proposed dwelling and extends in a northerly direction along the entirety of the eastern boundary of the site. Terminating on the northern boundary of the site which adjoins the rear garden area of No. 17 Fairview Avenue Lower. Where it joins the two-storey element there is a setback area included in the design that shows a bin store and bike store together with access for the proposed dwelling of Windsor Lane adjoining and directly behind the easternmost end of the roadside boundary. It would appear from the drawings that single storey element, which has a flat roof shape, would have a maximum height of 3.48m.
- 7.3.10. Of concern, the proposed first floor element at its nearest point has a lateral separation distance of c3.7 from the rear elevation of No. 16 Fairview Avenue Lower at its nearest point and 7m at its furthest. Of note the staggered L-shape rear façade of No. 16 Fairview Avenue Lower contains several window openings. These windows are modest and reflect the period character of this building whose original use would have been as a single dwelling unit. The eastern elevation of the proposed dwellings first floor level contains one long rectangular shaped glazing unit, and the northern elevation contains two. The northern elevation of the two-storey element is setback 7.3m from the northern boundary. It is of note that the nearest of its windows is c7m from the eastern boundary. In this context I consider that the proposed dwelling’s overall design, height and built form lacks appropriate visual subordination to No. 16

Fairview Avenue Lower. Also, this lack of visual subordination is in my view added to the solid to void treatment of the first-floor element which despite adding lightness to the first-floor element the proximity of these glazing units, albeit indicated to be fitted with frosted glazing. Notwithstanding, in my view, they have the potential to give rise to perception of being overlooked or actual overlooking when opened and when viewed from the rear as well as side adjoining and neighbouring properties.

- 7.3.11. The Development Plan under Section 15.11.4 states that: *“at the rear of dwellings, there should be adequate separation between opposing first floor windows. Traditionally, a separation of about 22 m was sought between the rear first floor windows of 2-storey dwellings but this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers”*.
- 7.3.12. Having regard to the aspect of the site, the relationship the proposed development would have with No. 16 Fairview through to the shadow analysis submitted, an analysis which indicates a loss of daylight, sunlight, and increased levels of overshadowing, I share the Planning Authority’s view that a reduction in separation distances to a level of that proposed would not be appropriate in this case. This is on the basis of the serious diminishment that would arise to properties in its vicinity. Such an outcome would not accord with the site’s residential zoning objective, i.e., this includes the protection and improvement of residential amenities.
- 7.3.13. The single storey element of the proposed dwelling adjoins the entirety of the eastern boundary with this property. The projecting eastern single storey element has a mono-pitched roof that in proximity with the 2m in height eastern boundary would have a maximum height of 2.4m. This roof structure would slope upwards to 3.48m on its westernmost side. I do not consider that this element of the proposal in itself, despite its proximity to the eastern boundary of the site and the limited lateral separation distance between the rear of No. 16 Fairview Avenue Lower, would give rise to any significant visual and/or residential amenity impacts on this adjoining property.
- 7.3.14. In terms of the internal amenity for occupants of the proposed dwelling I raise concerns in terms of daylight, sunlight and natural ventilation to the first-floor level given that it is dependent on frosted glazing units on its eastern, western, and northern side. These window units together with the fact that the windows on the eastern and northern

elevation would need to function with limited opening so as to ensure no actual significant overlooking arises to No. 16 and No. 17 Fairview Avenue Lower. In my view this type of mitigation measure should be required by way of condition in the event of the Board being minded to grant permission.

7.3.15. I also raise concern that there is a ground floor bedroom with a modest window opening onto Windsor Lane. It is not indicated in the submitted drawings and particulars whether or not the windows on the south façade which address Windsor Lane would be fitted with clear glazing. While I am cognisant that artificial ventilation could theoretically deal with the ventilation, however, no renewable measures for generating on-site electricity is indicated. I also note that the submitted shadow analysis suggests that the private amenity space, which I note has a northerly aspect, given its relationship with the proposed dwelling, the dimensions of the site together with other structures present would in terms of its functional useability be diminished from significant overshadowing. Given the lateral separation distance of opposing first floor windows this space would also be significantly overlooked.

7.3.16. Overall, I am not satisfied that the proposed dwelling based on the design submitted is one that would result in qualitative residential amenity for its occupants.

7.3.17. Based on the above considerations I consider that the visual and residential amenity concerns raised by the Planning Authority in their reason for refusal are reasonable and, if permitted, the proposed development would be contrary to the policies and provisions of the Development Plan, including the 'Z1' zoning objective for the site.

7.4. Traffic/Car Parking

7.4.1. First of all, Section 15.13.5.4 of the Development Plan indicates that car free mews developments may be permitted in certain circumstances where there are specific site constraints and where alternative modes of transport are available. It states that: "*each development will be assessed on a case by case basis*".

7.4.2. In this case the Planning Authority considered that given the site's location in easy reach of public transport and other amenities as well as services that the omission of car parking in this case is acceptable. I concur with this conclusion and to this I add that given the size of the site together with but not limited to the deficiencies in Windsor Lane to accommodate safely additional vehicle movements this development would generate alongside inherent issues with its restricted width, the *ad hoc* parking along

its length which I observed and experienced causes obstruction for its users and other safety issues/nuisances; the volume of traffic I observed at the time in both directions in the immediate vicinity of the site and the quantum of residential and commercial properties using it for access I would question the capacity to absorb any further unnecessary vehicle access arising from substandard residential development.

- 7.4.3. In terms of Windsor Lane itself, it would appear that there is a precedent for this type of development to require a minimum carriageway of 4.8m or 5.5m, the latter in the case of where there are no verges or footpaths. The measurements taken from the drawings submitted and on the site do not demonstrate that there is 4.8m minimum carriageway width when the footpath is considered. As previously mentioned in this report there is also no indication in the drawings of the light standard that is positioned in close proximity to the southern boundary of the site, or any measures contained within the documentation provided or with the appeal to reposition it.
- 7.4.4. There is also no clarity provided on how traffic would be managed during construction and whether or not there would be any oversailing and/or overhanging from the proposed design. The latter is a concern for the south facing ground floor window that appears to be placed on the southern boundary.
- 7.4.5. Further there is no design rationale given to why no setback from the public carriageway given the criteria set out in the previous Development Plan for this type of development. These criteria requiring this type of development to demonstrate adequate accessibility in terms of private vehicular movements, emergency vehicles and refuse vehicles have been carried through in the new Development Plan.
- 7.4.6. It is of further note that the Planning Authority's Transportation Division required further information be sought requiring the proposed development to be revised in a manner that accorded with the Development Plan which requires mews lane to have a minimum carriageway that in this circumstance be 5.5m along the entirety of the width of the site.
- 7.4.7. Moreover, during site inspection the public carriageway adjoining and in the immediate vicinity of the site was significantly obstructed by *ad hoc* parking and by storage of refuse bins. The storage of bins on the public carriageway of Windsor Lane appears to be a constant issue for road users. With their present visible on publicly available

photographic and aerial photography of the lane. This issue however should be directed to the Road Authority which in this case is Dublin City Council to deal with as they see fit.

- 7.4.8. Based on the above considerations I am not satisfied that the design rationale which includes minimal setback from the roadside boundary accords with Section 15.13.5.4 of the Development Plan.

7.5. Undesirable Precedent

- 7.5.1. The Planning Authority's given reason for refusal raises concern the precedent a grant of permission this proposed development would establish. I note that the Development Plan as set out above requires minimum carriage widths for mews lane developments. Recent similar developments in this area for mews development have required the 5.5m carriage width along entirety of roadside boundaries in similar site contexts. I consider that there is merit in this concern on a traffic and accessibility basis.
- 7.5.2. I also consider that the design shows a lack of subordination with No. 16 Fairview Avenue Lower and the three-storey building to the west. As said the height of the proposed dwelling as proposed appears to project above that of No. 16 Fairview Avenue Lower. With this property having a given height of 8.28m on the rear projecting annex and the three-storey building having a maximum height of 9.88m. In addition, the mews buildings to the south west on the opposite side of Windsor Lane have given heights of 7.73m with Windsor Lane addressing gable built forms.
- 7.5.3. As set discussed previously Section 15.13.5.2 of the Development Plan requires this type of development to complement the character of both the mews lane and the main building which in this context is No. 16 Fairview Avenue Lower. With this including generally two storeys in built form and subordinate in their height and scale.
- 7.5.4. Against the existing pattern of development, in particular the adjoining and neighbouring development to the east as well as west of the site, when taken together with the minimal lateral separation distance between the mews dwelling and No. 16 Fairview Avenue Lower, I consider the lack of subordination of the proposed dwelling does not accord with Section 15.13.5.2 of the Development Plan. To permit the proposed dwelling could give rise to an adverse precedent for such developments to accord with Development Plan criteria in similar site contexts.

7.5.5. Whilst I am cognisant that each planning application should be assessed on its merits, given the considerations above I consider precedent concerns raised by the Planning Authority in its given reason for refusal is not without basis.

7.6. **Other Matters Arising**

7.6.1. **Services:**

Should the Board be minded to grant permission I recommend that the Board include an appropriately worded condition dealing with water, foul drainage, and surface water runoff requirements.

7.6.2. **Section 48:**

Section 48 development contributions are applicable.

8.0 **Appropriate Assessment Screening**

8.1. Having regard to the modest nature and scale of the proposed development, the location of the site within an serviced urban area with capacity to accommodate the proposed developments water and drainage requirements, the separation distances to designated European Sites, the nearest of which is South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) which is located c0.8km to the south east at its nearest point, the nature and characteristics of the landscape in between, and the absence of an ecological or a hydrological connection between the site and any designated European sites, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

9.0 **Recommendation**

9.1. I recommend that the Board uphold the decision of the Planning Authority to **refuse** planning permission for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. The proposed mews house would be sited an inadequate distance from the rear elevation of No. 16 Fairview Avenue Lower such that the building would have a severe overbearing and overshadowing impact this property as well as a significant impact on the aspect enjoyed by that property. The proposed development would cause serious injury to the residential amenities of the area as a result and would, in itself and by the precedent established for such development immediately proximate to the rear of existing dwellings, be contrary to the policies and objectives of the Dublin City Development Plan, 2022-2028, and the proper planning and sustainable development of the area.

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

Patricia M. Young
Planning Inspector

17th day of July, 2023.