



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317750-23

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<b>Development</b>	PROTECTED STRUCTURE: Refurbishment and alterations to guest house to include upgrades to services and all associated site works.
<b>Location</b>	13 Gardiner Street Upper, Dublin 1
<b>Planning Authority</b>	Dublin City Council North
<b>Planning Authority Reg. Ref.</b>	3478/23
<b>Applicant</b>	Lindmar Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Mountjoy Square Society
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	17 September 2023
<b>Inspector</b>	Rachel Gleave O'Connor

## 1.0 Site Location and Description

- 1.1. The appeal site is situated to the south west of Gardiner Street Upper, to the north west of Mountjoy Square. No.13 Gardiner Street Upper is part of a two-bay, four storey Georgian terrace and a Record Protected Structure (RPS) no. 3101.

## 2.0 Proposed Development

- 2.1. The proposed development is described as follows:

(i) At lower ground floor: removal of non-original partition walls throughout the reinstate original floor plans where possible. Conversion of kitchen at front room lower ground floor to bedroom and erection of stud walls to facilitate new bathrooms to serve 2 no. bedrooms. A new ope will be created in the original wall to provide access to bathroom for front bedroom. Relocation of door to rear bedroom at lower ground floor. Replacement of non-original timber stairs with new timber stairs and placement of W.C. under stair. Relocation of door to plant room by blocking existing ope and creating new external ope. Replacement of non-compliant external concrete stairs with compliant concrete stairs;

(ii) At upper ground floor the replacement of dining room door with unopenable traditional four panelled timber door in original style. Installation of kitchen units in dining room to create kitchen/dining room. Removal of non-original arch in hall and installation of 2 no. fire doors. Reconfiguration of non-original partitions to rear extension to provide wheelchair accessible bedroom with kitchenette and bathroom. Non-original floor structure to be replaced above lower ground floor boiler room. Removal of window on rear return;

(iii) At first floor, the removal of non-original partition walls throughout to reinstate original floor plans where possible. Relocation of bathroom to rear bedroom and creation of fire lobby. Closing of existing ope into front bedroom and creation of new ope;

(iv) At second floor, the reconfiguration of non-original partition walls through to reinstate original floor plans where possible and create fire lobby for front bedroom;

(v) At third floor the reconfiguration of non-original partition walls through to reinstate original floor plans where possible and create fire lobby for stairwell. Closing of

existing ope into front bedroom and creation of new ope. Removal of non-original timber glazed door and replacement with window at roof level, the replacement of existing roof light over stair with 1 sq.m of glazed automatic opening vents; and installation of 3no. pop-ups at roof level to provide ventilations to WCs below;

- (vi) Replacement of all non-original windows on front facade with traditional sliding timber sash windows and all windows on rear facade with like-for-like;
- (vii) All non-original internal doors to be replaced by traditional timber panelled doors at hall and flush elsewhere and non-original floor to be replaced by timber flooring where required;
- (viii) Fire upgrade of floors;
- (ix) Installation of upgraded services including electrics, plumbing, fire and burglar alarms, intercoms, CCTV and data/phone points;
- (x) Repair and restoration of original features including window surrounds, painted timber shutter boxes, skirting and plasterwork;
- (xi) Making good of damaged walls, floorboards, fireplaces and plasterwork;
- (xii) Provision of gas boiler and hot water cylinder;
- (xiii) Removal of obsolete fire escape stair to rear;
- (xiv) Repainting of render and cills on front facade and front wall and railings;
- (xv) Removal of cast iron hopper and downpipe;
- (xvi) Replacement of non-original front door repainting of door case;
- (xvii) All ancillary works necessary to facilitate the development.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.2. Following a Further Information Request on 24<sup>th</sup> May 2023, the planning authority issued a notification of decision to grant permission on 13<sup>th</sup> July 2023, subject to 7 conditions.

### **3.3. Planning Authority Reports**

#### **3.3.1. Planning Reports**

The following comments are noted in the planner's report:

- According to the submitted Planning Report, the use of the property was a guesthouse prior to 1964. It is noted that no enforcement history exists on the site and that it would appear that there was a guesthouse use (internet search) prior to the property's resale in early 2023, albeit it does not appear to have been used as such for some time. The proposed development will provide 9 no. bedrooms including a DAC bedroom and the works propose to rationalise the number of rooms in the property and reduce subdivision in addition to a number of upgrade and improvement works which are welcome.
- The continued use of the property as a guesthouse would be open for consideration under the Z8 zoning whereby the proposed development of such use would need to be compatible with the overall policies and objectives for the zone and would not have undesirable effects on permitted uses and would otherwise be consistent with the proper planning and sustainable development of the area.
- Note concerns raised with respect to the use by third parties, although a change of use has not been stated in the public notices.
- No detail on management of guesthouse, staffing, waste management, bicycle parking or landscaping – these elements require clarification by way of further information.
- Noted that the existing mews structure to the rear of the site is excluded from the subject site which is disappointing considering the building is in a very poor condition.
- Appropriate Assessment: it has been found that significant effects are not likely to arise, either alone or in combination with other plans and projects that will result in significant effects to any Natura 2000 sites.
- EIA: Having regard to the nature of the development, the need for EIA can be excluded.
- Recommended that Further Information be requested regarding the details noted above with respect to staffing/management/details and conservation details noted in technical reports below.

- Further Information Response received by Dublin City Council on 16<sup>th</sup> June 2023.
- The Planning Authority are satisfied with the information submitted with respect to management, bicycle parking, landscaping.
- With respect to conservation matters, submitted methodologies are acceptable, revised drawings received as requested, submitted drawings acceptable, proposals for rear elevation windows not acceptable, request revised drawings for more historically appropriate windows in advance of works commencing. The Conservation Section is generally satisfied with the information submitted and recommends that permission be granted subject to conditions.

### 3.3.2. Other Technical Reports

- Conservation Section: A comprehensive suite of plans, elevations and photographic inventory provided. Little information on specific interventions. Omissions of mews building is disappointing. Preference would be for a more long term residential use. No methodologies for repair work provided, these should be to best conservation practice. Reinstatement of historic volume of rooms welcomed. Proposed location of bathrooms is acceptable. Double doors at upper round floor level between the kitchen and living room should not be removed. Servicing drawing does not address electrical, heating or fire. Replacement of inappropriate windows welcomed. Proposal to provide uPVC windows to rear is not considered best conservation practice and would set an undesirable precedent. Request revised proposals with regard to windows to the rear. 1:20 drawings requested. FI Request issued, following receipt of FI Response, Conservation Section generally satisfied with the information submitted and recommends that permission be granted subject to conditions.
- Drainage Division, Engineering Department: No concerns raised, works to comply with drainage standards.
- Air Quality Monitoring and Noise Control Unit: No concerns raised. Request conditions concerning asbestos survey, good practice construction and demolition, and hours of works.

### 3.4. **Prescribed Bodies**

- Transport Infrastructure Ireland: Request a condition for the Section 49 Contribution Scheme Levy if the development is not exempt.

### 3.5. **Third Party Observations**

- One observation received from the Mountjoy Square Society. Matters raised reflect similar issues set out in the grounds of appeal as summarised in section 6 below, focused on the type of use to be carried out in the property, detail of refurbishments, and concern that the rear mews house is excluded from the application.

## 4.0 **Planning History**

4.1. No of relevance.

## 5.0 **Policy Context**

5.1. Local Planning Policy is set out in the Dublin City Development Plan 2022-2028. The site is zoned Z8 Georgian Conservation Area with the objective 'To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective.' The site is also situated within the Mountjoy Square Architectural Conservation Area.

5.2. Chapter 11 of the Development Plan concerns Built Heritage and Archaeology. A summary of relevant policies is set out below.

5.3. Policy BHA2 requires works to Protected Structures or impacting their setting, to be carried out sensitively to the special character of the structure and to conserve and enhance their curtilage and setting.

5.4. Policy BHA7 requires development proposals to contribute positively to Architectural Conservation Areas and the protection of the special interest and character of Architectural Conservation Areas.

5.5. Policy BHA9 requires the protection of the special interest and character of conservation areas.

- 5.6. Policy BHA11 concerns the rehabilitation and reuse of existing older buildings, with suitable adaption encouraged in preference to demolition and redevelopment.
- 5.7. Policy BHA24 encourages the careful refurbishment of historic built environment for sustainable and economically viable uses.
- 5.8. Appendix 5 – Transport and Mobility of the Plan sets out the technical requirements in relation to cycle and car parking standards.
- 5.9. Other Relevant Guidelines:
- 5.10. Architectural Heritage Protection Guidelines for Planning Authorities.
- 5.11. **Natural Heritage Designations**
- 5.12. The subject site is located approximately 2km to the west of the European site at South Dublin Bay and River Tolka Estuary SPA. There is no connection to any European (Natura 2000) sites and no pathways.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The main points of the grounds of appeal are as follows:

- Inadequate details have been provided by the applicant as to the proposed use, operation and management of the property post-refurbishment.
- Concern that the property will be a large-scale homeless, temporary or emergency accommodation.
- The operational management plan submitted lacks detail is generic and is not acceptable.
- Overconcentration of the this use type in the area.
- No clarity on the intended use or occupants of the property, how it will be marketed or managed.
- The layout of a large-scale breakfast room and living room on the ground floor, bedrooms in the basement, and full fire lobbies to all bedrooms clearly

indicates that new hostel/temporary type accommodation is intended for longer-stay residents.

- Oversaturation of temporary accommodation uses in the area leading to social, economic and cultural issues. Leading to antisocial behaviour and crime in the north city centre. As a result, the future of the North Georgian Core and its survival, its community and historic built fabric, is now questioned.
- Reference to policy QHSN28 'Temporary Homeless Accommodation and Support Services' and QHSN29 'Temporary Accommodation Located in the City Centre' of the Development Plan. That proposals for such uses do not result in undue concentration of such uses, with a general presumption against the development and expansion of any new temporary/homeless accommodation in D1, 7 and 8, including adaption of tourist hostels and hotels.
- With reference to the Mews house to the rear, the original coach house is in a physically deteriorated state and is in need of repair as part of the application. The Planner ignored the conservation officer comments in this regard.
- The poor condition of the coach house, the last recognisably intact coach house on all of Upper Gardiner Street, must be arrested as part of this application. The owner has an obligation under Part IV of the Planning and Development Act to ensure that Protected Structures under their care are safeguarded from damage to their special character, as does Dublin City Council. Coach houses are rare in the North Georgian Core. Reference to section 15.13.5 of the Development Plan concerning the rarity of mews buildings and the need to retain and conserve surviving examples.
- Welcome the conservation officer's condition that sash windows be made according to exacting conservation details, and that further revised drawings have been provided. However, these are c.1800 Dublin sash window designs, which should not feature projecting horns on the sashes. The omission of this detail should be conditioned as part of revised window drawings for both the rear and front elevation.



## 6.2. **Planning Authority Response**

- No response.

## 6.3. **Applicant Response**

6.4. The property has an established pre-63 use as a guesthouse as noted in the planning application. The appellants concern is irrelevant in the context of statutory notices published as part of this application.

6.5. It is noted that the mews building did not form part of the planning application. The mews building cannot form part of the assessment by the Board.

## 6.6. **Observations**

- None received.

## 7.0 **Assessment**

7.1. I propose to assess the appeal under the following headings:

- Use;
- Mews building; and
- Windows.

### 7.2. Use

7.3. The substantive grounds of appeal raised by the appellant relate to the use of the property subject to the application. The appellant suggests that the use will be changing from a tourist type guesthouse to accommodation for the homeless or similar type temporary/hostel accommodation. The appellant points to an oversaturation of homeless/temporary/hostel type accommodation in the area. Reference is made to policies under the Dublin City Development Plan that concern temporary accommodation, including a presumption against new temporary/homeless accommodation in Dublin 1 where the subject site is located, including adaption of tourist hostels and hotels to such uses.

- 7.4. The Local Authority's Planners Report refers to the application documents, which outline that the property was used as a guesthouse prior to 1964. The Planner's Report also identifies that there is no planning enforcement history relating to the site and that from internet searches, it would appear that the property was a guesthouse prior to its resale in 2023. The Planner's Report goes on to state that use as a guesthouse is open for consideration under the Z8 zoning for the site, albeit noting that a change of use has not be referenced in the public notices relating to the application.
- 7.5. The Dublin City Development Plan identifies the zoning of the site as Z8 Georgian Conservation Areas, where guesthouse is an open for consideration use. While I agree with the appellant that the Development Plan does outline prohibitive policies with respect to homeless/temporary accommodation in the Dublin 1 area, and that this is due to an oversaturation of such uses which is having a detrimental effect on the area, the Local Authority has accepted that the established use of the site is for a guesthouse, and I concur with this approach. The planning application is not for a change of use. The documents submitted with the application clearly state that it is intended to continue the use of the property as a guesthouse. I do not accept that the internal alterations applied for can only relate to use for temporary/homeless accommodation, and nevertheless, if a change of use were to occur at the property in practice, the owner would be open to enforcement action regardless of any consent issued in relation to the alterations applied for in this application.
- 7.6. In summary, this application does not relate to a change of use of the property and concerns aesthetic alterations only to the external facades and internal arrangements. Therefore, the grounds of appeal relating to the use of the property do not relate to the application details as submitted by the applicant.
- 7.7. Mews building
- 7.8. I note that the appellant refers to the dilapidated state of an original Mews 'coach house' to the rear of the site and that in the event that planning permission is granted, a condition should be used to require refurbishment of this building which forms part of the protected structure on the site.
- 7.9. The Local Authority's Planners Report and the Local Authority's Conservation Officer acknowledge that the Mews house is omitted from the application and conclude that

it is disappointing that works do not include the refurbishment of this building.

However, no conditions relating to the Mews house are included in the notification of decision to grant permission.

7.10. I note section 15.13.5 'Mews' of the Dublin City Development Plan 2022-2028 which states the following:

*"...Many historic mews buildings remain within the curtilage of protected structures and are, therefore, also afforded statutory protection. The relationship between the historic main house and its mews structure remains a relevant consideration for architectural heritage protection. Dublin City Council recognises the increasing rarity of stone/brick coach houses and the need to retain and conserve all of the surviving examples. Proposals to demolish such buildings will generally not be accepted..."*

7.11. Policy BHA14 concerns the promotion of redevelopment and regeneration of mews lanes and Objective BHAO5 concerns best practice design for appropriate mews development. The Mews 'coach' house for no.13 Gardiner Street Upper is afforded protection as part of the protected structure status of the main property, and therefore policies BHA2, BHA7, BHA9, BHA11, and BHA24 apply, which require the protection, conservation and enhancement of such structures, their curtilage and settings, as well as encouraging careful refurbishment for sustainable and economically viable uses.

7.12. However, the Mews house does not form part of the redline boundary for this planning application. Compelling the developer to incorporate the structure into the planned refurbishment of the site would raise a number of complications in my opinion. If works were required by condition, the extent and nature of works that would be carried out, would not be subject to a wider public consultation process and would be reviewed internally within the Local Authority only. The subsequent nature and use of any floorspace established as part of any refurbishment works of the Mews house is also ambiguous. For these reasons, it is not appropriate in my view to incorporate works to the Mews house into the proposed development by way of condition. The plans indicate that a future planning application is intended for the Mews house, and that would be preferable in my view. I also note that under section 58 (1) of the Planning and Development Act 2000 (as amended) there is a duty upon owners of protected structures to protect them from endangerment. Section 59 goes

onto describe powers that the Local Planning Authority have to serve notice to require works to be carried out in relation to the endangerment of protected structures. Such powers are at the disposal of the Local Planning Authority should they deem it necessary to act in relation to the Mews house at no.13 Gardiner Street Upper.

7.13. As a result, my assessment is confined to the relationship between the proposed refurbishment works to the main property at no.13 Gardiner Street Upper and any resultant impact upon the Mews house. In my view, the proposed works comprise refurbishment of the main property at no.13 with regard to conservation best practice, and as such, would not harm the setting of the Mews house.

7.14. Windows

7.15. The appellant also raises concern regarding the finished details for the proposed replacement windows.

7.16. The Local Authority Planner's Report welcomes the replacement of existing historically inappropriate windows with a style that better reflects the special character of the protected structure. A condition is recommended in relation to the rear elevation windows that do not meet conservation best practice in terms of finish and materials.

7.17. Under the Dublin City Development Plan 2022-2028, policy BHA2 requires works to Protected Structures to be carried out sensitively to the special character of the structure, following best conservation practice and respecting historic fabric. The fenestration of historic buildings is a key feature in how the building is viewed in the streetscape, and a defining form to a buildings character. The Architectural Heritage Protection Guidelines state in section 10.4.19 that:

*"It is of importance to the character and appearance of a structure that fenestration patterns are protected. Where replacement windows are permitted, the materials, glazing divisions and sectional profile of the new windows should be appropriate to the date of the protected structure or to the date when the opening was made. If the latter, the design should be judged on its contribution to the protected structure."*

7.18. Subsequently, it is important that alterations to the windows at the subject site are undertaken with care to reflect conservation best practice, with an appearance

appropriate for the age and character of the protected structure on the site. It is therefore appropriate to ensure that final details of all proposed windows for the property are presented to the Local Planning Authority for agreement prior to any works commencing at the site. This will ensure that the Local Authority has further opportunity to review the details and fully satisfy themselves of the appropriateness of the finish to the fenestration proposed.

#### 7.19. Conclusion

7.20. The grounds of appeal do not raise any substantive concern with regards to the internal alterations proposed, beyond that associated with the use of the property. The Local Planning Authority accepts that the established use of the property is for a guesthouse and I concur with this approach. The planning application does not detail a change of use at the property, and should such a change occur, enforcement action could be actioned by the Local Authority. The assessment of the planning application subject to this appeal is confined to the external and internal alterations proposed to the protected structure on the site, which would in general, enhance the special interest of the protected structure. The Mews house does not form part of the proposed works, and there would be lack of transparency and ambiguity regarding future use of that part of the site if works were to be compelled by way of condition. The Local Planning Authority is empowered under separate legislation to prevent endangerment of that structure should they deem such action necessary. Windows for the main property on the subject site should be historically appropriate, or otherwise appropriate to the character of the property, in accordance with policies under the Development Plan, as well as the Architectural Heritage Protection Guidelines, and as such a condition is recommended for final details in this regard.

### 8.0 **Recommendation**

8.1. Having regard to the above, I recommend that permission be GRANTED for the development, subject to conditions, for the reasons and considerations set out below.

### 9.0 **Reasons and Considerations**

Having regard to:

(1) the zoning of the site under Z8 Georgian Conservation Area with the objective ‘To protect the existing architectural and civic design character, and to allow only for limited expansion consistent with the conservation objective.’,

(2) planning policies and objectives under the Dublin City Development Plan 2022-2028,

(3) the nature and design of the alterations, with consideration of the protected structure status of the property (RPS no. 3101), and

(4) the existing pattern of development in the vicinity, with consideration of the conservation status of the area,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously, or disproportionately, injure the amenities of the area or of property in the vicinity, would otherwise be sensitive to the protected structure status of the property and conservation status of the area, and therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the Further Information received on 16/06/23, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of clarity.</p>
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2. The following requirements of the Planning Authority's Conservation Section shall be fully complied with in the proposed development:
- a) The applicant shall submit the following architectural conservation details/revisions for the written approval of the Planning Authority prior to the commencement of development:
    - i) Revised 1:20 drawings of the proposed windows to all elevations demonstrating a finish appropriate to the structure's early nineteenth-century date.
    - ii) Confirmation of the proposed paving to the rear garden.
    - iii) 1A drawn survey at a scale of 1:50 accompanied by a photographic record of the historic rear boundary walls and a detailed schedule of repair and reinstatement works to the original walls are to be provided in advance of works commencing. A method statement for the raking out and re-pointing of the stonework and associated repair details is also to be provided.
  - b) A conservation expert with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained fabric and the curtilage of the Protected Structure.
  - c) The proposed development shall be carried out in accordance with the following:
    - i) All works to the structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of Housing, Local Government and Heritage. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
    - ii) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.
    - iii) All repair of

	<p>original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric.</p> <p>iv) The architectural detailing and materials in the new work shall be executed to the highest standards so as to complement the setting of the protected structure and the historic area.</p> <p><b>Reason:</b> In order to protect the amenity, setting and curtilage of the Protected Structure at 13 Gardiner Street Upper and to ensure that the proposed works are carried out in accordance with best conservation practice.</p>
3.	<p>Prior to the demolition of any structures on site an asbestos survey of the buildings to be demolished must be carried out. The proposed methodology for the removal of asbestos materials and monitoring of air quality must be submitted for the written agreement of the Planning Authority.</p> <p><b>Reason:</b> To ensure a satisfactory standard of development.</p>
4.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
5.	<p>Site development and building works (including demolition phase) shall be carried out only between the hours of 0700 to 1800 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>The developer shall comply with the requirements set out in the Codes of Practice from the Transportation Planning Division.</p>



	<b>Reason:</b> To ensure a satisfactory standard of development.
7.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers expense.</p> <p><b>Reason:</b> To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development.</p>
8.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health and surface water management</p>

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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Rachel Gleave O'Connor  
Senior Planning Inspector

25 September 2023