



An
Bord
Pleanála

Inspector's Report ABP-318564-23

Development	Protected structure: Demolition of sheds, construction of 7 dwellings with all associated site works.
Location	Lands fronting Waterloo Lane & Fleming's Place (to the rear of 1 Waterloo Road & 1A Fleming's Place) Ballsbridge, Dublin 4.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3711/23
Applicant(s)	Waterloo Road Ventures Limited
Type of Application	Planning Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party Appeal
Appellant(s)	Waterloo Road Ventures Limited
Observer(s)	None
Date of Site Inspection	23/09/2024
Inspector	D. Aspell

1.0 Site Location and Description

- 1.1. The site is at the junction of Waterloo Lane and Fleming's Place, Dublin 4. It comprises part of the rear garden of No. 1 Waterloo Road. No. 1 Waterloo Road is a protected structure. It comprises a 3-storey end of terrace dwelling.
- 1.2. The site is heavily overgrown. Within the site is a garage accessed from Waterloo Lane as well as stone boundary walls; this portion of the site appears to include what was originally part of the rear garden of No. 3 Waterloo Road. The western and northern boundary of the site comprises a large stone wall.
- 1.3. Fleming's Place adjoins to the north. Waterloo Lane adjoins to the west. To the east is the remainder of the rear garden of No. 1 Waterloo Road. The site also adjoins the non-original boundary wall of No. 1A Fleming's Place ('the coach house') at this point. No. 1A Fleming's Place was formerly the coach house of No. Waterloo Road. No. 5 Waterloo Lane is adjacent to the south; it comprises a 2.5-storey pitched roof mews dwellings with on-site parking off Waterloo Lane.
- 1.4. I note that the application boundary was reduced during the application process to exclude previously proposed works to No. 1A Fleming's Place.

2.0 Proposed Development

- 2.1. The proposal is for the demolition of sheds, a garage, and walls within the site, and construction of 7 no. accesses from Waterloo Lane through the existing boundary wall, as well as construction of a terrace of 7 no. dwellings. Each dwelling is to have 3-storeys, 4-bedrooms, courtyard parking to the front, and a garden to the rear.
- 2.2. A number of revisions were made to the application at further information stage. The main changes were: retention of all existing coach house structures, a reduction in site area along the eastern edge with No. 1 Waterloo Road; changes to the 2nd floor rear and front elevations and corresponding internal layout and elevation changes.
- 2.3. A revised proposal is set out as part of the appeal. The main changes proposed are the omission of the 2nd floor from the unit no. 1 (adjacent No. 5 Waterloo Lane), a reduction in the extent of the ground floor front projections (and omission of same entirely from unit 1) and inclusion of small terraces / amenity areas in their place.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dublin City Council issued a notification to Refuse permission for 2 no. reasons, summarised as follows:

- Reason No. 1 The applicant failed to adequately address the concerns of the planning authority regarding the separation distance from adjoining boundaries, position forward of the build line, height, design, fenestration size, and materials which would have a seriously negative impact on the residential amenity of future occupants and on the amenities of the Z2 area, adjoining/adjacent protected structures and neighbouring properties.
- Reason No. 2 The development would be overbearing and would seriously injure the residential amenity of property in the vicinity, and that in addition would give rise to low levels of privacy and low levels of residential amenity for future occupants of the proposed units, and would set a poor precedent.

3.2. Planning Authority Reports

3.2.1. Planning report: The planning authority planner report in response to further information recommended refusal for 2 no. reasons generally as per the planning authority decision. The report made the following points:

- Overdevelopment, depth and height: Report states the proposal is acceptable in principle, however refers to concerns regarding overdevelopment and excessive depth and height. Report states that change made in response to further information are not enough to overcome concerns;
- Building line: Report states the site is large and surrounded by tall commercial buildings, however it is also a protected structure, an established residential road, and mews lane. Report notes the mews buildings differ in style but have some uniformity in building line and height. Report states the proposal does not respect the established patterns and would significantly break the building line to front and rear. Whilst there are minor changes to the building line along the mews lane they are not the c.8m proposed;

- Depth, scale and massing: The revised proposal did not significantly reduce the depth, scale, massing or unit number, and or significantly increase separation distances or rear garden depth. The proposal should be refused;
- Tree: There are no trees on site and as such further study in this regard cannot be undertaken.
- Natural lighting: Submitted analysis lacks detail, is unclear and appears to contain errors. The response is not acceptable;
- Conservation: Report notes report and recommendation for refusal from Conservation Officer;
- Conclusion: Proposal would cause serious injury to the special architectural character, amenity and setting of the protected structure at No. 1 Waterloo Road, and would cause serious injury to the architectural character of the history mews lane and residential conservation area. The dwelling numbers, the distance forward of the building line at ground level, the rear garden depth, and height do not adequately consider the pattern of development on Waterloo Lane. Proposal is overdevelopment alone and without the concurrent proposal at No. 1 Waterloo Road;
- Drainage: Any further application should address the fact that the planning authority drainage division sought additional information but this was not included in the further information request in error.

Other Technical Reports

- 3.2.2. Conservation Officer: Report in response to further information recommended refusal for 2 no reasons. The first recommended refusal reason was that the proposal would cause serious injury to the special architectural character, amenity and setting of the protected structure at No. 1 Waterloo Road and would cause serious injury to the architectural character of the historic mews laneway and the Residential Neighbourhoods (Conservation Areas). The second recommended refusal reason was that the proposal would contravene the requirements for mews developments set out in Policy BHA14 and Section 15.13.5 of the Dublin City Development Plan 2022-2028 in terms of height, scale and quality of design and would set an undesirable precedent for development in the area.

3.2.3. I note the points made in the conservation report as follows:

- The scale, height and massing along the mews laneway and to the rear of the protected structure is of concern;
- The bulk and massing is not a positive or innovative response to the site, and is out of scale with the 2-storey development along the laneway;
- The highest point of the terrace is only marginally below the eaves of the protected structure and will have an overbearing presence;
- The scale and massing will cause serious injury to the legibility of the historic mews lane and setting of the protected structure;
- Proposal is not sensitively designed and appropriately scaled infill residential development,
- Substantial revision is required to reduce the scale, be of high architectural quality and not adversely impact the curtilage and amenity of the protected structure, historic coach house and residential conservation area.
- Proposal is overdevelopment. A reduction in the number of units would facilitate greater floor area for the units and a reduction in height;
- Proposal does not address landscaping around the protected structure outside the application site. A landscaping plan should be provided which mitigates the loss of mature planting as a result of the proposed development. It is disappointing that trees that were on site were previously removed.

3.2.4. Drainage: The planning authority drainage division report in response to the application recommended one item of further information. The report stated that the submitted flood risk assessment should be expanded to further appraise the risk of pluvial flooding. The report stated the applicant should pay particular regard to pluvial flood maps prepared as part of the EU IVB Flood Resilient City Project which indicate that the proposed development might be at risk of flooding in a 10% and 1% annual exceedance probability pluvial events. No conditions were recommended by the division.

3.2.5. The planning authority planner report in response to further information stated that in error this item was not included in the request for further information.

- 3.2.6. Transportation Planning: Report in response to further information stated no objection subject to conditions relating to details of the existing boundary wall alignment, parking design details, pedestrian access details, and demolition and construction management, costs and codes of practice. The report notes the mews lane width is sufficient and that waste storage is provided for each dwelling.

3.3. **Third Party Observations**

- 3.3.1. During the planning application stage 3 no. observations were received by the planning authority. The issues raised related to: scale, height and massing; impacts on No. 1 and No. 3 Waterloo Road; incongruous design; impact on boundary wall; alterations to garden prior to application; tree removal; overlooking, building line, roof profile, and character; piecemeal development; and loss of green space.

3.4. **Prescribed Bodies**

None.

4.0 **Planning History**

4.1. Subject site

None relevant.

4.2. Adjacent sites:

Reg. Ref. 3869/23 (ABP Ref. ABP-318593-23): Decision to grant issued by the planning authority on 27th November 2023 for rear and side extensions, reconfiguration, refurbishment, and sub-division of **No. 1 Waterloo Road** (protected structure) to create 1 no. new dwelling for a total of 3 no. dwellings on that site, including parking and access from Fleming's Place. Decision **currently on appeal**. This proposal is located on the remainder of No. 1 Waterloo Road.

Reg. Ref. 4389/17: Planning permission granted by the planning authority in 2018 at No. 3 Waterloo Road (protected structure) for reversion of semi-basement flat to use

of main dwelling, single-storey 10 sqm extension to the semi-basement level, internal and external alterations.

5.0 Policy Context

5.1. Development Plan

The site is zoned 'Z2 Residential Neighbourhoods (Conservation Area) in the 2022-2028 Dublin City Development Plan, the land use zoning objective for which is "*To protect and/or improve the amenities of residential conservation areas*";

Policies SC2 City's Character, SC5 Urban Design and Architectural Principles, SC19 High Quality Architecture, SC21 Architectural Design, and SC22 Historical Architectural Character. Section 4.5.5 Urban Design and Architecture;

Policies SC8 Development of the Inner Suburbs, SC11 Compact Growth and QHSN6 Urban Consolidation.

Section 8.5.7 Car Parking, Policy SMT27 Car Parking in Residential and Mixed Use Developments. Table 2 Maximum Car Parking Standards for Various Land Uses;

Policies SI13 Minimising Flood Risk, SI15 Site-Specific Flood Risk Assessment, SI16 Site-Specific Flood Risk Assessment, SI21 Managing Surface Water Flood Risk, SI22 Sustainable Drainage Systems;

Chapter 10 Green Infrastructure and Recreations including Policy GI28 New Residential Development

Chapter 11 Built Heritage and Archaeology including Policy BHA2 Development of Protected Structures, Section 11.5.3 Built Heritage Assets of the City, and Policies BHA9 Conservation Areas, BHA10 Demolition in a Conservation Area, and BHA14 Mews. Sections 14.4 'Zoning Objectives and Reuse / Redevelopment of Protected Structures' and 14.7.2 Residential Neighbourhoods (Conservation Areas) – Zone Z2;

Sections 15.4 Key Design Principles, 15.4.2 Architectural Design Quality, 15.8 Residential Development, 15.11 House Developments (incl.15.11.3 Private Open Space), 15.13 Other Residential Typologies, 15.13.3 Infill/Side Garden Housing Developments, 15.13.4 Backland Housing, 15.13.5 Mews (including 15.13.5.2 Height, Scale and Massing), and 15.15.2 Built Heritage;

Appendix 5 Transport and Mobility: Technical Requirements incl. Sections 4.0 Car Parking Standards, Section 4.3 Parking In Front Gardens, 4.3.7 Parking in the Curtilage of Protected Structures, Architectural Conservation Areas and Conservation Areas, and 4.3.8 Mews Parking;

Appendices 13 Surface Water Management Guidance and 18 Ancillary Residential Accommodation incl. Sections 1.0 Residential Extensions and 6.0 Subdivision of Dwelling.

5.2. National guidelines and strategies

Sustainable Residential Development & Compact Settlements 2024, including Policy & Objective 5.1

Architectural Heritage Protection Guidelines for Planning Authorities 2011

Planning System Flood Risk Management Guidelines for Planning Authorities 2009

Quality Housing for Sustainable Communities Best Practice Guidelines 2007

5.3. Natural Heritage Designations

- 5.3.1. South Dublin Bay & River Tolka Estuary SPA and South Dublin Bay SAC are c.2.1km to the east

5.4. Environmental Impact Assessment screening

- 5.4.1. Having regard to the nature and scale of the proposed development of a 7 no. dwellings, the location in a serviced area, and to the criteria set out in Schedule 7 of the Planning & Development Regulations 2001, as amended, I consider that 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. (See Form 1 & 2 Appendix 1).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal prepared by the appellant's planning consultant was received and is summarised as follows:

- Summary: Form and scale are appropriate. Proposal provides for comprehensive development of an infill site. It is an exemplary form of contemporary architecture providing a high standard of residential accommodation whilst protecting the amenities and setting of the adjoining protected structure and Z2 conservation area;
- Planning authority decision: Decision made no allowance for the site being 0.14 hectares; adjacent 2-7 storey buildings, and close to the city centre;
- Existing mews: The adjacent mews offer no semblance of architectural merit and were developed piecemeal;
- Building line: Proposal sits forward of the building line to ensure the site is used efficiently. One parking space per house is proposed; neighbouring mews are set back to provide 2 no. parking spaces. No's. 8 to 16 Waterloo Lane are not set back from the public realm. The front projection breaks up the scale of development and is not an undue departure from other dwellings on the Lane including as they generally have 2m high walls along the lane boundary;
- Separation from boundaries: Nothing in the development plan says mews dwelling cannot be built on site boundaries. The planning authority reference to Appendix 18 Section 1.3 'Extension to side' relates to extensions and not infill development. The 1m+ distance to No. 5 Waterloo Lane, 19m+ distance to No.1A Fleming's Place and 30m+ to No. 1 Waterloo Road is sufficient;
- Future occupant amenity: The fenestration does not compromise residential amenity. Opaque glass can be fitted to bathroom windows. The rear garden depth / amenity spaces exceed requirements. No. 1 Waterloo Road will have a substantial area of private amenity space;
- Materials: No assessment is provided in the planning authority report. The proposed clay brick and architectural metal is of the highest quality available;

- Height: The planning authority had little regard for adjacent multi-storey commercial buildings. Proposed height is subordinate to No. 1 Waterloo Road;
- Design: Proposal is high quality. The brick finish matches neighbouring mews. Existing boundary wall is incorporated. Proposal complements the lane character and is not an undue departure from the existing form of the mews;
- Conservation: Proposal improves the visual amenity of the residential conservation area. There is already a distinct break between the original period buildings and later infill mews dwellings and the adjacent Z6 Employment / Enterprise zoned lands and modern 7 storey commercial office buildings to the north and west. As such this is a transitional area. Proposal achieves an appropriate balance between protecting the protected structures and Z2 area whilst ensuring efficient land use. Planning authority planner report had no regard to ensuring efficient density;
- Policy BHA2: Regard has been had to Architectural Heritage Protection Guidelines. Proposal has no undue impact on character and appearance of Nos. 1 to 3 Waterloo Road or their setting. The architects are accredited Conservation Grade III architects. The scale, mass, height, density and layout are appropriate. Proposal does not affect structural integrity, fabric or interior of structures. Proposal is an intensification of existing use
- Neighbour amenity: Proposal does not compromise residential amenity of neighbours in term of overlooking, overshadowing or overbearance.

Appeal sets out an alternative design option: It omits the 2nd floor and front porch of unit 1; Reduces the length, width and height of the front porches of units 2-6; steps down the sitting area of unit 7; and introduces a metal divider into the front elevations to delineate each house. Appeal states a preference for the design as per the submitted further information to the planning authority. The appeal sets out similar cases in the City, compliance with the Building Height Guidelines, and; appendices relating to alternate design option and similar cases.

6.2. Planning Authority Response

6.2.1. The planning authority requested the Board uphold its decision to refuse, and that if permission is granted conditions in relation to financial contributions and naming & numbering be attached.

6.3. Observations

6.3.1. None.

7.0 Assessment

7.1. Having regard to the foregoing; having examined the application, appeal and planning authority reports; having inspected the area within and around the site; and having regard to relevant adopted development plan policies and objectives, I consider the main issues in this appeal are as follows:

- Refusal reason 1;
- Refusal reason 2;
- Revised proposals submitted as part of the first party appeal;
- Related matters raised in the course of the appeal.

Refusal reason 1

7.2. The site is zoned Z2 Residential Neighbourhoods (Conservation Areas). I am satisfied the proposed residential development is acceptable in principle in this zone.

7.3. Regarding building line, there are variations in the building line along the existing mews Lane. The nearest dwellings step progressively forward (ie. Nos. 9 and 7 Waterloo Lane, and then again No. 5). The ground floors of some dwellings extend as far as the edge of the lane (eg. No. 79 Waterloo Lane). The proposed first-floor would be c.1.5m forward of No. 5 Waterloo Lane, and the second floor would be forward only c.0.5m. Whilst the ground floor would partly extend as far forward as the boundary wall with the lane, I consider the proposal overall would appear broadly in line with the line of dwellings along the lane; this is on account of the first and second floors being set back to a similar position as the neighbouring dwellings, and the ground floor being largely screened by the retained elements of the boundary wall. I

consider that this, and the depth of the proposed dwellings strikes an appropriate balance between making efficient use of this centrally located site whilst also having due regard to the surrounding built form and residential amenity.

- 7.4. Regarding separation distances from adjoining boundaries, the proposed terrace is set back c.8m from the proposed boundary with Nos. 1 and 3 Waterloo Road, and c.30m from these dwellings. The proposed terrace is set back from No. 5 Waterloo Lane by c.1m at ground floor and by c.3m at second floor. Most of the existing dwellings along Waterloo Lane are terraced and as such they have no set-back from adjoining site boundaries. Whilst the northernmost proposed dwelling along Fleming's Place sits against the northern boundary of the site, I consider it takes its northern building line from No. 1A Fleming's Place and would have minimal impact on the residential amenity of neighbouring dwellings.
- 7.5. In these regards, I am generally satisfied with the building line and separation distances to adjoining boundaries set out in the response to further information. I note the provisions of development plan Sections 15.4.2 and 15.13.3 in relation to building lines. I acknowledge the planning authority points that the ground floor level projects toward the lane boundary, and that the above ground levels are forward of neighbouring dwellings, however considering the size of the site, its location at the end of the lane, the relatively minor difference in the buildings above ground floor, and the extent of screening of the ground floor by the retained boundary wall, I am satisfied the proposal is acceptable in these regards.
- 7.6. Regarding building height, the maximum height of the proposed terrace is below the eaves levels of Nos. 1 and 3 Waterloo Road. Whilst No's. 1 and 3 are also 3 storey buildings they would stand over c.2.5m taller. I note the planning authority conservation officer concerns in this regard, including in relation to the height of the proposed development relative to the eaves of the existing protected structure. Overall I consider the proposal is subordinate in scale to these dwellings, and the primacy of the existing protected structures would remain intact. I note the other buildings in the adjacent terrace along Waterloo Road are 4 storeys. More generally, heights in the area vary considerably. The houses on Waterloo Lane are 2 storeys, however I note that a 3-storey dwelling was permitted by the City Council and constructed at No. 15 Waterloo Lane (Ref. WEB1507/22). I concur with the appellant that this is a transitional area and that alongside the site being within the setting of a

protected structure and on Z2 zoned lands, due regard should also be had to the very significantly-sized modern office buildings across Waterloo Lane. Those buildings are 4- to 7-storeys in height to both the north and the west. I am satisfied the proposed height remains subordinate to the adjacent protected structure, whilst also appropriately addressing the larger commercial blocks across Waterloo Lane.

- 7.7. Further in this regard, I note the provisions of Section 15.13.5.2 'Height, Scale and Massing' of the development plan in relation to mews development. In this regard I consider that the proposed 3 storeys, height, scale, roof treatment and set-backs are acceptable noting the contemporary design and form proposed.
- 7.8. Regarding scale, I acknowledge the planning authority points that the scale of the development is greater than the immediately adjoining dwelling, No. 5 Waterloo Lane. However, within the context of the much larger office buildings at this end Waterloo Lane to the west and north, as well as the large protected structures on Waterloo Road, I consider the proposed scale is warranted and is overall acceptable. In this regard, the terrace is stepped back from No. 5 Waterloo Lane and from the site boundaries on all sides, and the proposed building form is modulated to reduce the sense of scale.
- 7.9. Regarding design, the proposed design is contemporary and I acknowledge the greater horizontal emphasis and uniformity of design compared to existing mews dwellings along Waterloo Lane. However, overall I do not consider these differences are so significant as to conflict with or harm the character of the area, No. 1 Waterloo Road as a protected structure, its curtilage and setting, the neighbouring dwellings and protected structures, or that of the wider Z2 area. I consider the design has sought to respond to the contrasting buildings on all sides of the site rather than solely the mews buildings on Waterloo Lane and protected structures on Waterloo Road. I consider the materials, fenestration, and form reflects the protected structure of No. 1 Waterloo Road and the adjacent protected structures in that terrace. I also consider the roof profile and elevational design has been sufficiently articulated and modulated to reflect the existing mews buildings. I am also satisfied that a sufficient rhythm has been incorporated into the design to offset the horizontal emphasis and integrate with the existing mews. Overall I consider the design strikes an appropriate balance between the differing forms, design, and styles of development in the immediate context, including the historic development to the east, the smaller

modern mews development to the south, and the large contemporary office blocks to the north and west, whilst itself remaining contemporary and responding to the larger plot width. On balance I consider the design is a reasonable response to the site context and overall is acceptable.

- 7.10. Regarding fenestration size, the majority of windows proposed both to the front and rear are frameless, rectangular windows with a horizontal emphasis. I consider the shapes echo the windows in No. 1 Waterloo Road and the other Victorian-era dwellings along Waterloo Road. I note the larger windows proposed for the end of terrace / corner units (Nos. 6 and 7). I consider this variation is generally acceptable and aids in the legibility of the block. It is also a similar design approach taken in the adjacent commercial block. I also note there is significant variation in building design and fenestration size along Waterloo Lane. I also note the variation in window sizes to the rear of No. 1 Waterloo Road, and the very extensive glazing in the commercial buildings to the west. Overall I am satisfied with the proposal in this regard.
- 7.11. Regarding materials, the proposed elevations are primarily brick and metal cladding, accentuated with brick and metal fins. Final materials and glazing details are to be agreed. The front boundary stone wall is to largely be retained. I consider the use of brick is appropriate as it reflects the history of the area and heritage of the built form along Waterloo Road, and to a lesser extent the mews dwellings on Waterloo Lane, including the adjacent No. 5 Waterloo Lane. The indicated brick and metal colour is broadly speaking brown, which I consider appropriate to the residential buildings in the area. Regarding the glazing, whilst it is more contemporary I consider it reflects the neighbouring modern commercial blocks. I acknowledge the points raised by the planning authority conservation officer, however having regard to the variation in dwellings to the south and east, and the contemporary commercial buildings to the north and west, I consider the materials strike a reasonable balance between the different neighbouring developments, whilst remaining sympathetic to the protected structure No. 1 Waterloo Road and its setting and adjacent mews. In this regard I note the variation in brick between the buildings along Waterloo Road.
- 7.12. I consider that the separation distance from adjoining boundaries, height, and fenestration sizes are acceptable for the site. I am also satisfied the proposed build lines, design, and materials are acceptable having regard to the size of the site and the surrounding context. Overall I consider the proposal is acceptable and would not

have a serious negative impact on the residential amenity of future occupants or the amenities of the Z2 Residential Neighbourhoods (Conservation Areas), adjoining/adjacent protected structures or neighbouring properties.

Refusal reason 2

- 7.13. Regarding privacy and overlooking, overall I do not consider there would be significant detrimental impacts in terms of privacy or a significant degree of overlooking between existing and proposed dwellings. I consider appropriate screening is proposed to existing dwellings, and also between the proposed dwellings. I note that from No. 1A Fleming's Place the proposed first-floor would be c.20.5m away and the 2nd floor would be c.21.5m away.
- 7.14. Regarding the offices to the west, the office buildings are mainly 7-storeys at this point. The nearest of the proposed above-ground habitable room windows would be c.16m away from the nearest office windows. The office elevations are angled away from the dwellings by approximately 45 degrees. Proposed units no. 2 to 6 have only one above-ground habitable room window facing the offices, with units no. 1 and 7 would have two. The office windows have louvred screens and partially frosted solar shading which I consider further inhibits overlooking. Regarding the offices to the north, noting their position and distance away, and the layout and window orientation of the proposal at this point, I have no significant concerns of overlooking. Overall I am satisfied there will be no unacceptable overlooking or privacy issues arising in relation to the proposed development.
- 7.15. Regarding residential amenity for future occupants, I consider the proposed dwellings would provide for high-quality residential environments that generally exceed national and local standards for houses. I have some concern regarding the 2nd floor west-facing bedrooms, in particular within units 2 to 6 where the sole bedroom window is orientated south toward the neighbouring dwelling side wall. Whilst this inhibits overlooking, I have some concern as to the level of amenity and outlook for these rooms. I note the adjoining lightwells and terraces which enhance the overall amenity for these rooms, however I consider the rooms require further improvements in residential amenity and outlook, for example by the introduction of additional high-level glazing or roof windows. Overall I am satisfied with the level of

residential amenity that would be available for future occupants of the development, subject to revised design details for these specific rooms being agreed by condition.

- 7.16. Regarding natural lighting specifically, I have reviewed the submitted Daylight Analysis and Overshadowing report and am generally satisfied the proposal will provide for appropriate internal natural lighting conditions and will not have a significant detrimental impact on neighbouring dwellings. As set out above, the planning authority stated some concern with aspects of the report results, in particular the 2nd floor west-facing bedrooms. However, I note that whilst the windows for these rooms face toward the neighbouring dwelling side wall at a distance of c.1.5m, conversely each window faces south, is full wall height, opens onto a terrace, and is adjacent a light well. I also note these rooms are the 4th bedroom in the houses. The submitted daylight and overshadowing report indicates these rooms will achieve guideline internal luminance levels for bedrooms. Overall I am satisfied with the proposed development in this regard.
- 7.17. Regarding private amenity space, the proposed units are 3-4 bedroom houses (6-8 bedspaces). The rear gardens of units 1 to 5 range from c.52 to c.61sqm, whereas the rear gardens of units 6 and 7 are c.32sqm and c.36sqm. Units 2 to 6 incorporate a 1st floor terrace of c.10.6sqm, and unit 7 incorporates a 1st floor terrace of c.10.3sqm. Development plan Section 15.11.3 states a minimum of 10sqm private open space per bedspace is normally applied (which would equate to 60-80sqm for these units), but also states 60-70sqm of rear garden is sufficient for houses in the City. Units 1 to 5 meet the lower development plan requirement, however units 6 and 7 fall short by c.28% and c.23% respectively. All of the rear gardens meet the lower minimum private amenity space standards for houses stated in Compact Settlement Guidelines SPPR2, with the exception of the proposed units 6 and 7 which fall short of the stated minimum by c.7.4% and 13.6% respectively.
- 7.18. In this regard, SPPR2 states that for urban infill schemes on smaller sites (e.g. up to 0.25ha) the private open space standard may be relaxed in part or whole on a case-by-case basis, subject to overall design quality and proximity to public open space. I have reviewed the submitted drawings, design statement, daylight & overshadowing report, and landscape plans. I am satisfied the proposed dwellings and private amenity spaces are of a high quality, and that occupants would enjoy a high standard of amenity. I also note the site is c.160m from the Grand Canal and c.230m

from Wilton Park. Having regard to the size and location of the site, the overall quality of the houses proposed, and proximity to high quality public open space, I am satisfied the relaxation of standards provided for in national guidelines should be applied, and that the proposed private amenity space provision is acceptable.

- 7.19. Regarding overbearance, considering the size, scale and separation of the proposed development to the rear of No's. 1 and 3 Waterloo Road, No. 1A Fleming's Place, and to No. 5 Waterloo Lane, and do not consider that any significant degree of overbearance would arise from the proposed development. As such I do not consider the proposal would have a significant injurious effect on the residential amenity of property in the vicinity in this regard or would give rise to any significant degree of overbearance for future occupants of the development.

Revised proposal

- 7.20. The main changes proposed in the revised proposal submitted as part of the appeal comprises omission of the 2nd floor from unit 1 (adjacent No. 5 Waterloo Lane), and a reduction in extent of the ground floor front projection of each unit (and its omission entirely from unit 1) and inclusion of a small terrace / amenity area in its place for each dwelling. Changes to the elevations are also proposed with the introduction of dividers between each dwelling.
- 7.21. Whilst I do not consider these changes are necessary, I consider that they further reduce the scale and massing of the terrace; further reduce the horizontal emphasis; improve the rhythm and definition of the terrace front elevation; as well as moderate the height in relation to No. 5 Waterloo Lane. As such I consider the proposal as put forward within the first-party appeal is preferable. Whilst the Board may be inclined to seek further submissions in this regard, I do not consider these changes are so significant as to warrant further comment from interested parties.

Related matters raised in the course of the appeal

Heritage and conservation

- 7.22. Further regarding heritage, for completeness I consider below the additional points raised within the planning authority conservation officer report which have not already been addressed above in relation to the reasons for refusal.

- 7.23. Regarding the floor plan depth, with the exception of the proposed front projection behind the boundary wall, I consider the proposal is comparable to the existing mews in this regard. I accept the conservation officer points, however whilst appearing prominent on the submitted plans, in practice I consider this will be acceptable on account of the extent of screening from the front boundary wall and the comparable first- and second-floor plan depth to the existing mews dwellings.
- 7.24. Regarding the scale of the northern elevation (unit 7), the northern elevation is stepped to the front, rear and side. It is subordinate in height to No. 1 Waterloo Road. The ground- and first-floor elements are comparable in scale and size to No. 1A Fleming's Place, however I acknowledge the 2nd floor makes the northern elevation significantly larger. However, I consider this must be balanced against the very significantly sized commercial blocks to the west and north. In this more complete context I consider the proposed northern elevation is acceptable.
- 7.25. Regarding the points made by the conservation officer in relation to the proposed boundary line between the subject site and the remaining rear garden of No. 1 Waterloo Road, I note the proposed boundary wall was relocated further back away from No. 1 Waterloo Road during the course of the application. The location is now comparable to the line of the rear boundary wall of the neighbouring mews dwellings and in some cases is further away from the terrace along Waterloo Road. I am satisfied the area of private amenity space left for both No. 1 Waterloo Road and No. 1A Fleming's Place is sufficient and appropriate, including having regard to the provisions and requirements of the development plan and national guidelines. I have also had regard to the concurrent application to subdivide the remaining portion of No. 1 Waterloo Road and to convert the existing 2 no. dwellings to 3 no. and I am satisfied that, should that proposed development be granted, sufficient and appropriate private amenity space would remain to serve that development.
- 7.26. Regarding landscaping, the planning authority conservation officer states a cohesive landscaping plan should be provided which demonstrates provision of a suitable planting scheme to the rear of the protected structure and remainder of the rear garden of No. 1 Waterloo Road. These lands are indicated as being in the control of the applicant. Whilst there is a concurrent appeal on that site, I consider details of the brick boundary wall and landscaping for the remainder of No. 1 Waterloo Road should be submitted for the agreement of the planning authority in this regard.

Flood Risk

- 7.27. The planning authority drainage division report recommended further information in relation to flood risk. The report stated the submitted flood risk assessment should be expanded to further appraise the risk of pluvial flooding. The report stated the applicant should pay particular regard to pluvial flood maps prepared as part of the EU IVB Flood Resilient City Project as they indicate the development might be at risk of flooding in a 10% and 1% annual exceedance probability pluvial events.
- 7.28. I have reviewed the drainage design report and drawings prepared by the applicant's civil and structural engineer. The report addresses pluvial flooding and incorporates extracts of the pluvial depth map from the OPW Dublin Pluvial Study (Flood Resilient City). The report states the indicative extreme 10%, 1%, and 0.1% pluvial flood zones are mapped and show no flooding of the proposed development site.
- 7.29. The development plan Strategic Flood Risk Assessment (SFRA) incorporates the EU Interreg IVB Flood Resilient City Project in relation to pluvial flood risk (SFRA Section 2.4). The flood zones identified in the development plan are a composite of a number of flood risk sources and take account of pluvial flood risk. The site is within development plan Flood Zone C. The Flood Risk Guidelines state residential development in this zone is appropriate from a flood risk perspective subject to assessment of flood hazard.
- 7.30. The existing site forms part of a large garden. Broadly speaking the ground levels fall away from the main dwelling toward the subject site and are lower than the adjacent roads. Both Waterloo Lane and Fleming's Place generally slope down past the site away from the junction of Waterloo Lane and Fleming's Place.
- 7.31. The proposed ground levels would be raised to broadly match the adjacent footpaths along Waterloo Lane and Fleming's Place, with the exception of the northern corner of the site which would remain lower. The proposal incorporates green/blue roofs and permeable paving in the parking areas. Sumps are incorporate below each parking area to attenuate surface water run-off and are perforated for ground infiltration. All non-infiltrated surface water run-off for each dwelling is to discharge to the sump, with overflows to the public sewer. The drainage design report states the proposed attenuation storage accords with Dublin City Council requirements, and

that the attenuation volume achieves a minimum flow rate of 2ls/pha and incorporates a 20% climate change allowance.

- 7.32. The first-party appeal does not address this matter.
- 7.33. I note this matter was not raised by the planning authority in relation to the concurrent application at No. 1 Waterloo Road (Ref. ABP-318593-23).
- 7.34. I acknowledge the drainage division report recommended permission be withheld until the submitted flood risk assessment was expanded to further appraise the risk of pluvial flooding. However, considering the location of the site in Flood Zone C; the findings of the submitted site-specific flood risk assessment which addresses pluvial flooding; the proposed ground levels and existing levels around the site; as well as the surface water drainage features incorporated into the proposal; I am satisfied the development accords with Policy SI21 of the development plan and that refusal on these grounds is not warranted, subject to surface water management conditions.
- 7.35. Should the Board not be satisfied in relation to this matter, it may be inclined to seek a response from the relevant parties, however I am satisfied that in the absence of additional information refusal of permission on these grounds is not warranted.

Trees

- 7.36. Regarding trees, I note points made by the planning authority conservation officer and by observers regarding prior tree removal at the site. No tree protection orders or site-specific tree protection policies relate to the site in the development plan. No tree removal is proposed as part of the application or appeal, and whilst the site is overgrown I noted no significant tree growth on the site.

Access and parking

- 7.37. I note the decision and conditions recommended by the planning authority roads section. I consider that an additional condition relating to street lighting is also required to deal with the streetlamp located outside the site.

Relationship to concurrent application and appeal

- 7.38. Regarding procedure, I note the **concurrent appeal** to the Board (Ref. ABP-318593-23) at No. 1 Waterloo Road and No. 1A Fleming's Place. One observation on the subject application raised issue with two separate and concurrent applications (and now concurrent appeals) at No. 1 Waterloo Road. I have no issue procedurally with

these two cases running concurrently. Furthermore, having regard to the nature of both proposals, the concurrent appeals, the nature of the issues involved, and the changes to both proposals set out in the appeals to the Board, I am satisfied there is no significant conflict between the two developments. In this regard I note changes made to that proposed development at further information stage and as part of that appeal, including the proposed boundary between the developments which was moved further west away from No. 1 Waterloo Road.

- 7.39. Regarding the third-party appellant points relating to overdevelopment of No. 1 Waterloo Road, I have considered this question including having regard to both proposed developments, No. 1 Waterloo Road being a protected structure, and the Z2 land use of the site. The appellant submitted a masterplan for the overall lands showing both developments alongside each other and submitted related commentary in this regard. Having regard to the foregoing, and to the proposed density, site coverage and plot ratio of both sites individually and together, as well as to the impact on the protected structure, its setting and the Z2 land use zoning objective for the area, I do not consider the overall development proposed at No. 1 Waterloo Road amounts to overdevelopment.

Conditions

- 7.40. Regarding water infrastructure, a standard condition relating to connection to water infrastructure is required.
- 7.41. Regarding Part V, and having regard to the concurrent appeal at No. 1 Waterloo Road, I am satisfied no conditions in this regard apply.

Conclusion:

- 7.42. The majority of other mews sites on Waterloo Lane have been developed for housing. No. 1 Waterloo Road differs from other dwellings on the road in that the dwelling is considerably wider, and the rear garden is c.7 times wider than any other rear garden on the road. The site also includes what was part of the rear garden of No. 3 Waterloo Road. These factors provide for a mews site that is considerably larger than others in the area. This end of the lane also differs in relation to the scale of the adjacent commercial blocks to the north and west. Whilst the site is within the curtilage of a protected structure and on Z2 zoned lands, due regard must also be given to its full context.

- 7.43. I acknowledge the planning authority points regarding the impact on the protected structure, however overall I am satisfied the separation distances from adjoining boundaries, the building lines, height, design, fenestration size, and materials are acceptable and would not have serious negative impacts on the amenities of the Z2 area, adjoining/adjacent protected structures and their curtilage including No. 1 Waterloo Road, other neighbouring properties, or on the residential amenity of future occupants. I also consider the development would not have an unacceptable overbearing impact or would seriously injure the residential amenity of property in the vicinity, and would not give rise to low levels of privacy and low levels of residential amenity for future occupants of the proposed units.
- 7.44. Having regard to the foregoing, to the scale, contemporary design, and nature of the proposal and neighbouring development, and to the strategic objectives of the development plan, on balance I consider the proposal provides for an appropriate building form and design which addresses the transitional nature of the area both in terms of height and scale, design, materials and form. I consider it strikes an appropriate balance between the different building forms, types and designs in the immediate context, the heritage of the site, and objectives to deliver compact development and the efficient use of land in this central location.
- 7.45. Regarding precedent, considering the size, location and context of the site I consider the scope for the site to set any precedent is narrow.
- 7.46. Regarding the proposal as further revised as part of the appeal, I consider the revisions indicated improve the form and elevational treatment of the terrace and should be incorporated into the proposed development by condition.

8.0 Appropriate Assessment screening

- 8.1.1. I have considered the proposed student accommodation development in light of the requirements of Section 177U of the Planning & Development Act 2000 as amended. The subject site is not located within or adjacent any European Site designated SAC or SPA. The closest European sites, part of the Natura 2000 Network, are the South Dublin Bay & River Tolka Estuary SPA and South Dublin Bay SAC which are located c.2.1km to the east from the proposed development. The proposed development is located in an urban area and comprises 7 no. dwellings. No significant nature

conservation concerns were raised as part of the appeal. Having considered the nature, scale and location of the development I am satisfied it can be eliminated from further assessment as there is no conceivable risk to any European Site. The reason for this conclusion is the nature of the development and its location in an urban area, served by mains drainage, the distance to any European Sites, and the urban nature of intervening habitats and absence of ecological pathways to any European Site. I conclude that on the basis of objective information the proposed development would not have a likely significant effect on any European Sites either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment Stage 2 under Section 177V of the Planning & Development Act 2000 as amended is not required.

9.0 Recommendation

- 9.1. I recommend permission be **Granted**, subject to conditions, for the reasons and considerations below.

10.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2022-2028, including the Z2 land use zoning objective for the area, Policies BHA2 Development of Protected Structures and BHA14 Mews, and having regard to the scale, height, form, and design of the proposed residential development, and to No. 1 Waterloo Road as a protected structure, to the mixed development to the west and north, and to the pattern of development in the area including protected structures, and to the pattern and form of development along Waterloo Lane as a mews lane, it is considered that, subject to compliance with the conditions set out below, the proposed development would not unduly impact the character and heritage of the area, including the protected structure on the site and its setting, and those in the area, and would not seriously injure the character and amenities of the Z2 area or of property in the vicinity, and would overall promote the redevelopment and regeneration of Waterloo Lane as a mews lane. The proposed development would, therefore, accord with the proper planning and sustainable development of the area.

11.0 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 plans and particulars received by the planning authority in response to further information, and the further plans and particulars received by An Bord Pleanála on the 29th day of November 2023, 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 and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The applicant shall submit the following architectural conservation details/revisions for the written approval of the Planning Authority prior to the commencement of development:</p> <ul style="list-style-type: none"> a) Details of brick type and finishes to the proposed rear garden boundary wall with No. 1 Waterloo Road; b) Details of landscaping to the remaining rear garden of No. 1 Waterloo Road; c) Details of the works proposed to the historic boundary wall along Waterloo Lane and Fleming's Place: <ul style="list-style-type: none"> i) 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; <p>The following shall also be complied with:</p> <ul style="list-style-type: none"> d) All works to the protected structure and within its curtilage 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

	<p>shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair offsite shall be recorded prior to removal, catalogued and numbered to allow for authentic reinstatement;</p> <p>d) All repair of original fabric shall be scheduled and carried out by appropriately experienced conservators of historic fabric;</p> <p>e) 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>Reason: In order to protect the amenity, setting and curtilage of the Protected Structure at No. 1 Waterloo Road and to ensure that the proposed works are carried out in accordance with best conservation practice.</p>
3.	<p>The development shall be revised as follows: The applicant shall submit for the written agreement of the planning authority revised plans, elevations and particulars for the second-floor front bedrooms of units 2 to 6 inclusive to include proposals for improved outlook of these rooms to comprise additional high-level glazing or roof windows.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings and other structures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity and to ensure an appropriate high standard of development..</p>
5.	<p>The developer shall comply with the following requirements of the planning authority:</p> <p>a) Prior to commencement development the developer shall contact Public Lighting and Electrical Services at Dublin City Council and liaise with them with regard any works including relocation or removal to the existing public lighting column adjacent to the site. All works will be at the developer's expense;</p>

	<p>b) A maximum 1 no. car parking space per dwelling is permitted. The proposed new entrances shall be provided to the requirements of the Area Engineer, Roads Maintenance Department.</p> <p>c) All entrance gates onto Waterloo Lane and Fleming's Place shall not be outward opening;</p> <p>Reason: In the interest of proper planning and sustainable development.</p>
6.	<p>The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water within the site for the written agreement of the planning authority.</p> <p>Reason: In the interest of public health.</p>
7.	<p>Prior to commencement of development, the developer shall enter into connection agreement(s) with Uisce Eireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.</p> <p>Reason: In the interests of public health and to ensure adequate water / wastewater facilities.</p>
8.	<p>Proposals for house naming and numbering shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all house names and numbers, shall be provided in accordance with the agreed scheme.</p> <p>Reason: In the interest of urban legibility and orderly street naming and numbering.</p>
9.	<p>Prior to the commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction & Demolition Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste. The Plan shall include a Construction & Demolition Traffic Management Plan which shall incorporate measures to minimise impact on the public road and potential conflict with pedestrian, cyclists, vehicles and public</p>

	<p>transport.</p> <p>Reason: In the interest of public safety and amenity.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.</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.-

D. Aspell
Inspector
24th October 2024

APPENDIX 1

Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference		ABP-318564-23	
Proposed Development Summary		Protected structure: Demolition of sheds, construction of 7 dwellings with all associated site works.	
Development Address		Lands fronting Waterloo Lane & Fleming's Place (to the rear of 1 Waterloo Road & 1A Fleming's Place) Ballsbridge, Dublin 4.	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)			Yes X No No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	X	Class/Threshold.....	Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No	X	Preliminary Examination required	
Yes		Screening Determination required	

Inspector: _____

Date: __ 12/10/2024__

Form 2 - EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-318564-23	
Proposed Development Summary	Protected structure: Demolition of sheds, construction of 7 dwellings with all associated site works	
Development Address	Lands fronting Waterloo Lane & Fleming's Place (to the rear of 1 Waterloo Road & 1A Fleming's Place) Ballsbridge, Dublin 4.	
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.		
Characteristics of proposed development	Proposed development comprise 7 no. dwellings in the rear garden of a dwelling. The proposed dwellings each have a modest footprint, require minimal demolition works, and do not require the use of substantial natural resources, or give rise to production of significant waste, significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, human health or is vulnerable to climate change.	
Location of development	The development is located in an urban area with an existing dwelling onsite. The receiving location is not environmentally sensitive and is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the City Development Plan. The site is of historic and cultural significance as a protected structure, however given the scale and nature of development there will be no significant environmental effects arising.	
Types and characteristics of potential impacts	Having regard to the characteristics and modest nature of the proposed development, the sensitivity of its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____ Date: __12/10/2024_____

DP/ADP: _____ Date: _____
(only where Schedule 7A information or EIAR required)