



An
Bord
Pleanála

Inspector's Report

ABP-319515-24

Development

Permission for a two-storey dwelling over basement to the rear and west of existing dwelling in an architectural conservation area and all associated site works including pedestrian and vehicle access from Church Mews, onsite parking spaces and site drainage works.

Location

Rear of 15 The Rise, Malahide, Co. Dublin

Planning Authority

Fingal County Council

Planning Authority Reg. Ref.

F23A/0679

Applicant(s)

Eithne Catherine Hannon

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)

Anne Gill & Michael Gill

Ciaran Lynch

Observer(s)

None

Date of Site Inspection

4th July 2024

Inspector

Emma Nevin

1.0 Site Location and Description

- 1.1. The appeal site measures c.0.028 ha is located to the rear of a two-storey property, No.15 The Rise, Malahide. The site is generally rectangular, and currently functions as part of the rear garden of the house at No.15 and it is laid out as garden lawns with a number of mature trees and a steel framed storage/garden shed. The site can be accessed through a pedestrian entrance gate off a rear lane known as 'Church Mews', or from the existing host house along 'The Rise'.
- 1.2. This lane serves as a rear access to several 'mews type' dwellings which have been constructed and also serves other properties located along both 'The Rise' and 'Windsor Terrace'. The lane is a cul de sac measuring c.106m in length and it terminates at the appeal site. It measures c. 5.1m in width. It is accessed via an electronic gate at its northern end where it meets Healy's Lane. This stretch of lane/road (Healy's Lane) serves the library and an apartment development, and it also provides loading and perpendicular on-street metered parking.
- 1.3. 'The Rise' is characterised by established low density residential development, with several mews dwellings to the rear gardens, within walking distance of Malahide village to the north west.

2.0 Proposed Development

- 2.1. The proposed development comprises a two-storey over basement two-bedroom mews dwelling, located to the rear of the existing dwelling on site, No. 15 The Rise. The dwelling has a floor area of 240 sq. m. and is a flat roofed contemporary style dwelling with a height ranging from 3 metres to 6.6 metres.
- 2.2. The dwelling is some 18 metres from the rear of the existing dwelling on site, No. 15 The Rise and fronts to the west towards the laneway. A rear amenity space of 65 sq. m. is proposed.
- 2.3. The proposed dwelling will have pedestrian and vehicular access from Church Mews, with on-site parking.
- 2.4. The proposed works also include associated site and drainage works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority granted permission, following further information request, on 19th March 2024, subject to 14 standard conditions, which included the following:

- Condition 3 relates to the occupancy of the dwelling.
- Condition 5 relates to the glazing within the proposed first floor window on the side/corner (northern) elevation shall be a fixed pane and obscure glazing.
- Condition 6 relates to visibility at the access.
- Condition 7 relates to surface water.
- Condition 10 specifies requirements in relation to noise insulation for the dwelling having regard to the location of the site within Noise Zone C associated with Dublin airport.
- Condition 12 relates to hours of operation.
- Condition 13 relates to Uisce Eireann requirements.
- Condition 14 relates to development contributions.

3.2. Planning Authority Reports

3.2.1. Planning Reports dated 11th January 2024 and 15th March 2024 have been provided.

3.2.2. The original planning report considered it necessary to seek further information on the following items:

- To submit a site layout plan to reflect the existing situation on site and the existing dwelling to the north, including separation distances to the parent house No. 15.
- To provide a detailed drawing for the proposed vehicular entrance onto the access road including opening and boundary walls.
- The Conservation Officer required contiguous elevations of the proposed development relative to the existing mews, in relation to the design approach.

Photomontages, proposals for landscaping/planting along the new boundary with the existing dwelling No. 15, details of the design, materials and colour pallet of the house and boundary treatments onto the lane.

- To submit proof of permission to connect to the private surface water sewer.

3.2.3. The planners report concluded that the further information sufficiently addressed all items under the further information requests and it was considered that the proposed development is acceptable and is in accordance with the Fingal County Development Plan 2023 – 2029, subject to 14 no. conditions.

3.2.4. Other Technical Reports:

- Water Services: Report received recommended conditions.
- Transportation Planning Section: Report received recommending further information. Following further information, no objection.
- Conservation Officer: Report received recommending further information. Following further information, no objection.
- DAA: Report received recommended conditions.

3.3. Prescribed Bodies

3.3.1. The Planning Authority indicated that the following prescribed bodies were consulted.

- Uisce Eireann: Report received recommended conditions.

3.4. Third Party Observations

3.4.1. Four third party submission were received, the issues raised can be summarised as follows:

- In adequate auto-turn simulation.
- No basement impact assessment or construction management plan has been submitted.
- Basement may cause disruption to the areas shared water table by way of excavation impact, ground water flow and flood risk.

- Construction Access, entering and existing Church Mews Lane – risk to pedestrian and bicycle users.
- Overdevelopment of subject site.
- No Part V proposal.
- No change since previous refusal on site.
- Restricted access to the lane.
- Impact on adjacent properties.

3.4.2. Following the submission of further information, one further third-party observation was received, the issues raised within which can be summarised as follows:

- Failure to mitigate against negative impacts to adjacent residential amenities.
- Proposal will result in increased traffic congestion and create a road safety hazard.
- Development includes removal of part of a shared boundary wall which abuts third party property. Third party has not consented to nor has been asked to consent to the applicant making alterations to the shared boundary wall.
- The revised swept path analysis does not accurately reflect the existing conditions on site.
- The plan shows an encroachment in to the 1.5 metre pedestrian zone to the west.
- Concerns regarding construction traffic.
- The proposed development represents a gross overdevelopment of the site.

4.0 Planning History

4.1.1. F18A/0632: Permission refused by Fingal County Council on 8th January 2019 for the development of two storey mews dwelling to the rear and west of existing dwelling in an architectural conservation area and all associated site works including access, parking spaces and site drainage works.

The reason for refusal related to the location of the site at the southernmost part of the access laneway, which had no opportunity for turning manoeuvres for vehicles and the expected traffic generated by the development and the lack of safe turning opportunities at present the development would generate a traffic hazard and would endanger public safety.

PL06F.249204/F17A/0214: Permission refused on appeal to An Bord Pleanála for the development of a new two storey mews dwelling to the rear and west of existing dwelling in Architectural Conservation Area and all associated site works including access, parking spaces and site drainage works.

The reason for refused included that the proposal would result in an unacceptable intensification of traffic movements on a gated lane in a busy urban area where visibility is restricted arising from a 90-degree bend at the gated point and where it has not been demonstrated that vehicles, can access the lane, or would comply with the guidance set out in the Design Manual for Urban Roads and Streets 2013. As such if permitted, would lead to unacceptable movement conflicts between motorised vehicles and other road users and would endanger public safety by reason of a traffic hazard.

4.1.2. Relevant adjoining planning history:

There has been a substantial planning history associated with the immediate vicinity most notably to the rear gardens of Nos. 1, 3, 5, 7, 9 and 13 The Rise, and Nos. 1, 2, 3, 5 and 6 Windsor Terrace.

These are set out in the Planning Authority's report and those of most relevance are summarised as follows:

- To the rear of 13 The Rise - adjoining the site to the north.

F20A/0613 permission granted for the demolition of an existing shed and the construction of a two-storey, four-bedroom detached dwelling located to the rear of the existing dwelling including vehicular and pedestrian access to proposed dwelling (accessed from Church Mews) and for 2 no. new car parking spaces all associated works necessary to facilitate the development.

ABP-301009-18/F17A/0382 – permission granted for 2 no. new two storey mews dwellings to the rear and west of the existing dwelling in an Architectural

Conservation Area, and all associated site works including access, parking spaces and site drainage works.

- To the rear of No. 6 Windsor Terrace – adjoining the site to the west.

F13A/0359 – Permission granted for the demolition of an existing shed and greenhouse and construction of a two storey dwelling and all associated site works, including access the lane.

5.0 Policy Context

5.1. Fingal Development Plan 2023 – 2029

- 5.1.1. The subject site is zoned 'RS' Residential, with a sated objective *“Provide for residential development and protect and improve residential amenity”*.
- 5.1.2. With a Vision to *“Ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity”*.
- 5.1.3. The site is located within Noise Zone C associated with Dublin Airport.
- 5.1.4. The site is located within an Architectural Conservation Area.

5.2. Relevant Development Plan Policy:

- Objective SPQHO40 – *“Development of Corner or Wide Garden Sites Favourably consider proposals providing for the development of corner or wide garden sites within the curtilage of existing dwellings in established residential areas subject to the achievement of prescribed standards and safeguards set out in Chapter 14 Development Management Standards”*.
- Objective SPQHO42 – *“Development of Underutilised Infill, Corner and Backland Sites Encourage and promote the development of underutilised infill, corner and backland sites in existing residential areas subject to the character of the area and environment being protected”*.
- Section 10.5.2.2 Architectural Conservation Area (ACA).
- Chapter 14 – Development Management Standards.
- Section 14.3.2 Screening for Appropriate Assessment.

- Table 14.4 Infill Development
- 14.6 Design Criteria for Residential Development in Fingal
- Objective DMS019 – New Residential Development – *“Require that applications for residential developments comply with all design and floor area requirements set out in: “ Quality Housing for Sustainable Communities – Best Practice Guidelines 2007, “ Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009, the companion Urban Design Manual – A Best Practice Guide, DEHLG 2009, “ Sustainable Urban Housing: Design Standards for New Apartments 2020”.*
- Objective DMSO23 – Separation Distances – *“A separation distance of a minimum of 22 metres between directly opposing rear first floor windows shall generally be observed unless alternative provision has been designed to ensure privacy. In residential developments over three-storeys in height, minimum separation distances shall be increased in instances where overlooking or overshadowing occurs”.*
- Objective DMSO27 – “Minimum Private Open Space Provision Ensure a minimum open space provision for dwelling houses (exclusive of car parking area) as follows:

3 bedroom houses or less to have a minimum of 60 sq. m. of private open space located behind the front building line of the house.

Houses with 4 or more bedrooms to have a minimum of 75 sq. m. of private open space located behind the front building line of the house. Narrow strips of open space to the side of houses shall not be included in the private open space calculations”.
- Section 14.19.3.3 Architectural Conservation Areas.
- Objective DMSO187 – Planning Applications within an ACA All planning applications for works in an Architectural Conservation Area shall have regard to the information outlined in Table 14.24.
- Objective CSO27 – *“Promote and Enhance existing ACAs Continue to promote and enhance the existing ACAs within our urban villages and protect their historic characters”.*

- Objective HCAO38 – *“Infill Development Support the development of sustainable backland and infill development that is appropriate in scale and character to historic town and village centres, that transitions appropriately, accommodates surviving structures where appropriate and retains the historic streetscape form”.*
- Objective DAO11 - Requirement for Noise Insulation – *“Strictly control inappropriate development and require noise insulation where appropriate in accordance with Table 8.1 above within Noise Zone B and Noise Zone C and where necessary in Assessment Zone D, and actively resist new provision for residential development and other noise sensitive uses within Noise Zone A, as shown on the Development Plan maps, while recognising the housing needs of established families farming in the zone. To accept that time based operational restrictions on usage of the runways are not unreasonable to minimise the adverse impact of noise on existing housing within the inner and outer noise zone”.*

5.3. Natural Heritage Designations

5.3.1. The subject site is not located within a designated European Site. However, the following sites in the vicinity of the appeal site should be noted:

- 300m from the Malahide Estuary SAC (Site Code: 000205), which is located to the south-west of the site.
- 300m kilometres from the Malahide Estuary SPA (Site Code: 004025), which is located to the south-west of the site.

5.4. EIA Screening

5.4.1. I refer the Board to the completed Form 1 in Appendix 1.

Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. Separate third-party appeals have been received from Anne and Michael Gill (No. 6 Church Mews), and Ciaran Lynch (No. 8 Church Mews). The grounds of each appeal have been reviewed and are summarised below:

- Overdevelopment of the site and intensification of Church Lane mews.
- Impact of the proposed basement – no assessment of the wider impact of the proposed basement on surrounding properties has been provided. No Basement Impact Assessment or Construction Management Plan detailing the potential effects on the surrounding area.
- The proposed development materially contravenes Objectives GI 20 and IUO9 of the Development Plan.
- The development of a basement at this location may cause a disruption to the areas shared water table by way of excavation impact, ground water flow and flood risk.
- The lane does not benefit from a turning head, this was omitted under revisions granted under F20A/0613, relating to the appellants property. The decision under this application noted the use of the appellants vehicular entrance as an informal turning area, the appellant intends to erect gates and the proposed dwelling would rely on this area which is outside the applicants control in order to ensure vehicular movement for refuse and emergency vehicles.
- The most recent refusal on the subject site the planning inspector noted severe traffic constraints at the site.
- The Swept Path Analysis submitted does not accurately have regard to the condition of the lane and shows a clear oversailing onto the 1.5metres pedestrian zone in addition to posing risks to users of the existing entrances to the west.

- The Swept analysis submitted as part of the further information indicates a vehicle skimming parallel to the appellants boundary wall, which is unsafe and invasion of a vehicle driving so close to the wall is not an option.
- The applicant has not demonstrated that the property can be safely accessed and egressed by both emergency vehicles and refuse access, and the site and lane do not have capacity to cater for construction parking.
- The narrow access to and from the site into the laneway is unsafe and is in close proximity to the adjoining pedestrian entrance gate to the appellant's property.
- Concerns regarding the access to and from the site for anything other than a family car and in particular access for emergency vehicles, skips, etc.
- The matter of construction access – it is not advisable to grant permission in the absence of a Construction Sequence and Methodology and a Construction Management Plan, including a swept path analysis for construction vehicles.

6.2. Applicant Response

- 6.2.1. A first party response to the appeal was received dated 1st May 2024, prepared by the applicant's agent.
- 6.2.2. The submission responds to the issues raised within the third party appeal as follows: -
- The appeals are essentially the same as submissions made during the planning process and were assessed and clarified during the process by the planning officer and what was required to be clarified was handled using the additional information system.
 - It is contended that the appeals would appear vexatious at one end of the scale or pointing to a profound lack of respect for the local authority planning system and should be disregarded.

- There was no visual impact of the basement as it would be constructed underground. The basement will be constructed in line with basic building provisions for this type of work and will not be close enough to boundaries to cause any difficulties, all underground services will be considered in line with modern building standards.
- In relation to the traffic management where there is a reference to the fact that the submission is part of the additional information is somewhat second rash this is set out in line with 'Autoturn' traffic management software and this system used by local authorities is carried out given the actual layouts for the area. Access is therefore aligned with the standards relied upon in the city and county of Dublin.
- The complaints about construction traffic are irrelevant, all buildings have to be constructed, both of the appellants have constructed their properties over the last few years with foundations evident on one of the photographic submissions to that end construction will be conducted with due haste to reduce time for construction.
- One neighbour is using the end of the lane to park a car daily, this laneway is required to be kept clear in line with previous planning permissions.

6.3. Planning Authority Response

- 6.3.1. Report received dated 9th May 2024, stating that the application was assessed against the policies and objectives of the Development Plan and existing government policy and guidelines. The proposal was assessed having regard to the development plan zoning objectives, third party concerns as well as residential and visual amenity and development management standards and the character and conservation of the area.
- 6.3.2. Having reviewed the grounds of the two third party appeals, the planning authority remains of the opinion that the proposed development would be consistent with the zoning objective pertaining to the area, i.e. 'RS', residential and is compliant with the relevant development plan policies and objectives in relation to the proposed infill

house and would integrate with similar development adjacent, and would be in accordance with the proper planning and sustainable development of the area.

The Planning Authority respectfully requests that its decision is upheld.

- 6.3.3. In the event that the Planning Authority's decision is upheld, the Planning Authority requests that conditions requiring financial contributions in accordance with the Section 48 Development are included.

6.4. **Observations**

None received.

6.5. **Further Responses**

None received.

7.0 **Assessment**

- 7.1. Having examined the application details and all other documentation on file, including the third party appellant's submissions (the subject matter of this appeal), site inspection and having regard to the relevant policies, objectives, and guidance, I am satisfied that the main issues to be considered are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. This assessment represents my de novo consideration of all planning issues material to the proposed development.

- 7.2. As such, the main issues in determining this appeal are as follows:

- I. Principle of Development and Development Plan Compliance
- II. Planning History
- III. Design and Layout
- IV. Proposed Access
- V. Construction Impacts - Traffic
- VI. Appropriate Assessment, and
- VII. Other Matters.

7.3. Principle of Development and Development Plan Compliance

- 7.3.1. The applicable Development Plan for development in the area is the Fingal County Development Plan, 2023 – 2029. Under the Development Plan, the site is zoned ‘RS’ residential, with a vision to ensure that any new development in existing areas would have a minimal impact on and enhance existing residential amenity. Accordingly, residential development is permitted in principle under this zoning objective and therefore, I consider the principle of the proposed development to be acceptable.
- 7.3.2. While the Development Plan does not contain specific guidance in relation to mews lane development, there is guidance in relation to corner/infill development, as such, I reference Section 14.10.1 of the Development Plan which highlights that the Council seeks to encourage the development of infill housing on underutilised infill and corner sites in established residential areas, where proposals are cognisant of the prevailing pattern of development in the area. I also reference Objective POQHO42, which promotes and encourages the development of underutilised infill, corner, and backland sites in existing residential areas. Table 14.4 and Section 14.6 of the Development Plan relates to Design Criteria for Residential Development, for new housing specifically residential infill.
- 7.3.3. Having regard to the specific requirements as outlined in the Development Plan, I am satisfied that the proposed development is acceptable in principle.
- 7.3.4. The appellant states that proposed development materially contravenes Objectives GI 20 and IUO9 of the Development Plan, in relation to the basement development, in particular, and this will be discussed in the following sections of this report.

7.4. Planning History

- 7.4.1. There is an extensive planning history pertaining to Church Mews, this has been referenced in the planners’ report, with the planning history pertaining to the directly adjoining sites noted in Section 4 of this report.
- 7.4.2. The appellant references the most recent refusal on the site. I note that the most recent refusal pertaining to the site (F18A/0632), related to the lack of opportunity for turning manoeuvres for vehicles at that present time. However, following the recent development works to the lane, and the noting the existing condition of the laneway

at time of my site inspection, I consider that this previous concern has been alleviated as the lane now provide opportunities for vehicles to turn.

7.4.3. The appellant also references permission granted on the adjoining site (No. 13 Church Mews), under F20A/0613, whereby the appellants vehicular entrance was to be used as an informal turning area on the lane. The appellant has stated that they intend to erect gates at the site. However, I note that any works outside of the remit of this planning appeal are outside consideration for the Board in determining this appeal.

7.4.4. Following site inspection, I am satisfied that given the presence of dwellings and openings to the laneway, that there is adequate space to provide an opportunity for vehicles to turn safely on the laneway. Additionally, the proposal provides for off street parking and a turning area to the front of the dwelling.

7.5. Design and Layout

7.5.1. Concerns have been raised in the appeals, in relation to the impact of the proposed basement on surrounding properties and that the proposed development materially contravenes Objectives GI 20 and IUO9 of the Development Plan.

7.5.2. The proposed basement will extend some 2.5 metres below ground level, and will accommodate a family room, store and WC, there will also be an external area, with a void over at ground floor level. The proposed basement has a floor area of 93 sq. m. The basement will be some 4 metres from the northern site boundary, 1 metre from the southern site boundary and 3.9 metres from the eastern site boundary. It is not considered that the proposed basement construction in this instance is so extensive that it would result in significant changes in the groundwater regime to the wider area or present a flood risk at this location. Any displacement of groundwater which may occur would be negligible in the context of altering levels of the water table or any existing underlying aquifer.

7.5.3. The applicant has indicated that the basement will be constructed in line with basic building provisions and that all underground services will be considered in line with modern building standards, therefore, I am satisfied that the basement will be constructed in line with best practice.

- 7.5.4. While the area of basement is c.93 sq. m. it does not in my view present an insurmountable engineering challenge as part of the proposed development. Furthermore, the proposed basement is not located directly beneath or contiguous to any overlying structures outside the ownership of the applicant's property. The provision of a basement, therefore, will not impact on the structural integrity of adjoining dwellings. It is imminently reasonable in my view that any details of the construction of the basement be the subject of a construction management plan; the details of which can be submitted to and agreed in writing with the Planning Authority prior to the commencement of development. As such a condition will be attached in this regard.
- 7.5.5. I also consider that the proposed contemporary design of the proposed dwelling, would be acceptable in this location within an Architectural Conservation Area, would read of its time, would add visual interest to the laneway and would be consistent with the design of the adjoining mews development to the laneway.
- 7.5.6. Objective IUO9 – Surface Water Drainage Systems, states that it is an objective to “Maintain and enhance existing surface water drainage systems in the County and to require SuDS in new developments where appropriate, as set out in the Greater Dublin Strategic Drainage Study (Vol 2: New Development) / Greater Dublin Regional Code of Practice for Drainage Works”, and Objective GI 20 requires “*that water storage areas be designed and integrated into the development with consideration to their drainage, recreation, biodiversity and amenity value*”. I note that as part of the further information request the applicant confirmed, by way of a letter of consent from the owner of No. 5 Church Mews that that they can connect to the existing services for surface water. There is nothing to suggest that the proposed development will in any way adversely impact on the amenity of the adjoining dwelling house through inadequate surface water drainage. The local authority Water Services Division also had no objection to this proposed connection. Therefore, I do not consider that the proposal would materially contravene Objectives GI 20 and IUO9 of the Development Plan. I recommend the inclusion of a condition in relation to surface water, the details of which can be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.

7.5.7. **Proposed Access**

- 7.5.8. The main concerns raised by the appellants relate to the accuracy of the Swept Path Analysis submitted, the condition of the lane and oversailing onto the pedestrian zone, which poses risks to users of the existing entrances, and the narrow unsafe access.
- 7.5.9. The site is accessed from Church Mews, a narrow lane that runs to the rear of properties in The Rise and Windsor Terrace. Church Mews is accessed from Healy's Lane at its northern end via an electronic gate. There is a 90-degree bend at the gated entrance point to the lane. Healy's Lane is a busy urban street with a row of perpendicular parking bays on its northern side and no footpaths over most of its length. It accommodates a rear access to Malahide Library and access to a substantial gated apartment development. At the time of my site inspection, there were no cars parked on Church Lane, with dedicated off-street parking to the existing constructed mews dwellings. There was construction activity taking place at the rear of No.1 The Rise, where a two-storey mews dwelling was permitted, with access to the laneway.
- 7.5.10. Noting the permission granted for dwellings along Church Mews, and that the proposal will intensify vehicular traffic along the lane, I consider that the proposal should be assessed in relation to the width and alignment of the lane, and the capacity of the lane to accommodate vehicular movements, pedestrians, and cyclists and, the capacity for vehicles to turn on the lane and to leave in the forward direction.
- 7.5.11. The planning authority requested further information in relation to the proposed vehicular entrance onto the access road, detailing the opening, and front boundary walls. The applicant was also requested to demonstrate adequate pedestrian-vehicle intervisibility at the intersection of the entrance with the shared surface laneway and to provide a swept path analysis.
- 7.5.12. The Transportation Section, following the further information request, stated that there was no objection to the proposed layout and location of the proposed vehicular entrance and that it was determined that there is adequate pedestrian-vehicular inter-visibility at the proposed vehicular entrance.
- 7.5.13. In terms of the width of Church Mews, DMURS recommends carriageway widths of between 5 and 5.5 metres on local streets (Section 4.4.1 refers). The existing lane

width of 5.1 to 5.2 metres is adequate in this context. I would note that there is an existing shared surface arrangement on the lane, with pedestrians and cyclists sharing the carriageway and no footpaths or line markings. DMURS supports shared surface arrangements in low traffic environments, stating that shared surface streets are particularly effective at calming traffic. Having regard to the modest extent of development proposed and to the width of the lane, I am of the opinion that it is adequate to cater for the level of vehicular, pedestrian and cyclist traffic that would be generated by the proposed development and that the informal shared surface arrangement would be acceptable in this context. I also note the enhanced layout of the lane through the implementation of the permissions granted, allows the safe turning of vehicles on the lane, if required.

7.5.14. The proposed works entail the removal of part of the existing boundary wall, which will increase the laneway width to 6 metres at the entry point to the site, and also provides for a 3.8 metre pedestrian and vehicular entrance. Parking is proposed within the site and the proposed dwelling will be set back 6 metres from the western site boundary and 4 metres from the northern site boundary. As such, I am satisfied that this arrangement will provide adequate space for vehicular movements within the site and will allow a car exit the site in a forward gear. This has been demonstrated on the Autoturn simulation submitted as part of the further information, which clearly indicates entry, exit and parking movements for a vehicle. I also deem this traffic management software to be acceptable in demonstrating the traffic movement within this site. I concur with planner's report, that the proposal should provide one car parking space only, given the location of the site within 1.5km from the Malahide Dart Station, and given the location of the site i.e. mews lane development. I recommend a condition be included in this regard.

7.5.15. In terms of sightlines, the removal of the boundary wall, allows for an increased sightline to the lane and I note the location of the subject site, which is at the termination of the lane. I acknowledge the adjoining pedestrian entrances, in particular at No. 6 Windsor Terrace, however, following site visit and noting the information submitted as part of the application, I consider that a vehicle can safely manoeuvre into and out of the site and that adequate pedestrian-vehicular intervisibility at the intersection of the entrance and the shared laneway can be provided.

- 7.5.16. Condition 6 of the Chief Executives Order, includes that no objects or structures shall be placed within the visibility triangle which would interfere with sightlines, I concur that this condition be included to ensure traffic safety at the entrance.

7.6. Construction Impacts – Traffic

- 7.6.1. Potential impacts on residential amenities during construction, relating to construction traffic, site access and parking are raised by the appellant.
- 7.6.2. As noted in the planning history above, development works have been completed for several mews' dwellings along both sides of the laneway to the rear of The Rise and Windsor Terrace, most notably at the rear of Nos. 13 The Rise and No. 6 Windsor Terrace, which directly adjoins the subject site and currently under construction at the rear of No. 1 as noted above.
- 7.6.3. Therefore, given the planning history of development works to Church Mews, I am satisfied that matters pertaining to construction management can be appropriately dealt with prior to construction by way of condition should the Board be inclined to grant planning permission in this instance and requesting the Applicant to prepare/submit a Construction Management Plan.

7.7. Appropriate Assessment

- 7.7.1. I have considered the application for a two-storey dwelling over basement to the rear and west of existing dwelling in an architectural conservation area and all associated site works including pedestrian and vehicle access from Church Mews, onsite parking spaces and site drainage works, in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 7.7.2. The subject site is located an approximate distance from the following Natura 2000 Sites:
- 300m from the Malahide Estuary SAC (Site Code: 000205), which is located to the south-west of the site.
 - 300m kilometres from the Malahide Estuary SPA (Site Code: 004025), which is located to the south-west of the site.

- 7.7.3. As noted in the forgoing, the proposed development comprises a two-storey dwelling over basement at this location. The proposed works also include pedestrian and vehicle access from Church Mews, onsite parking spaces and site drainage works.
- 7.7.4. No nature conservation concerns were raised in the planning appeal.
- 7.7.5. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- Nature of works comprising a two-storey dwelling over basement in a residential location.
 - The location and distance from nearest European site and the lack of any hydrological connectivity between the application site and the SAC/SPA.
 - Taking into account screening report/determination by Planning Authority.
- 7.7.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 7.7.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

7.8. Other Matters

7.8.1. Conditions:

As noted in Section 3.1.1 of the foregoing, the local authority recommended a grant of permission subject to 14 no. conditions.

Notwithstanding the above assessment, which recommends the inclusion of a number of additional conditions, a condition has also been included in relation to the proximity of the site and Dublin Airport. Condition 5 requests that obscure glazing serves the proposed first floor window to on the northern elevation of the proposed dwelling. This is considered reasonable.

The remaining conditions are considered to be standard and given the nature and scale of the proposed development, I concur with the local authority and recommend the inclusion of standard conditions in this instance.

7.8.2. Miscellaneous issues:

The reference to the use of the lane and any alleged unauthorised parking on the existing laneway are civil issues which, I consider to be outside of the remit of the instant appeal and that such activity fall outside of the Board's remit in deciding this application.

8.0 **Recommendation**

8.1. I recommend that planning permission should be granted, subject to conditions, as set out below, for the following reasons and considerations.

9.0 **Reasons and Considerations**

10.0 Having regard to the 'residential' zoning which applies to the site under the Fingal County Development Plan 2023 - 2029, the nature, scale and design of the proposed development, and pattern of development permitted along the laneway, it is considered that, subject to compliance with the conditions, the proposed development would be an appropriate form of infill development in terms of scale, design, form and layout, would not seriously injure the residential and visual amenities of the adjoining residential development and would be acceptable in terms of traffic, pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 **Conditions**

1.	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 on the 22 nd day of February 2024, 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
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	<p>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 proposed dwelling shall be occupied as a single residential unit and shall not be used, sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p>Reason: To restrict the use of the extension in the interest of residential amenity</p>
3.	<p>The proposed basement shall only be used for uses incidental and ancillary to the overall dwelling. The proposed basement area shall not be sold or used as separate accommodation from the main dwellinghouse.</p> <p>Reason: In the interest of orderly development.</p>
4.	<p>The glazing to all bathroom and en-suite windows, including the proposed first floor window on the side/corner (northern) elevation, shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.</p> <p>Reason: In the interest of residential amenity.</p>
5.	<p>The applicant/developer shall comply with the following:</p> <p>(a) The proposed development shall be restricted to one car parking space only.</p> <p>(b) No objects, structures or landscaping shall be placed or installed within the visibility triangle exceeding a height of 900mm; which would interfere or obstruct (or could obstruct over time) the required visibility envelopes.</p> <p>Reason: In the interests of traffic and pedestrian safety.</p>
6.	<p>Prior to the commencement of development the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network, and include any specific requirements if appropriate.</p>

	<p>Reason: In the interest of public health and to ensure adequate water/wastewater facilities.</p>
7.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:</p> <ul style="list-style-type: none"> (a) A plan to scale of not less than [1:500] showing – <ul style="list-style-type: none"> (i) Existing trees, hedgerows, specifying which are proposed for retention as features of the site landscaping. (ii) The measures to be put in place for the protection of these landscape features during the construction period. (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder. (iv) Details of screen planting, which shall not include cupressocyparis x leylandii. (v) Details of the proposed planting to the northern and eastern site boundaries. (vi) Hard landscaping works, specifying surfacing materials, furniture and finished levels. (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment (c) A timescale for implementation. <p>All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of three years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p>

	Reason: In the interest of residential and visual amenity.
8.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) located outside buildings or not attached to buildings shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Details of the ducting shall be submitted to and agreed in writing by the planning authority prior to the commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
9.	<p>Site development and building works shall be carried out only between the hours of 0700 and 1800 Mondays to Fridays inclusive, between 0800 to 1300 hours on Saturdays 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>Reason: In order to safeguard the amenities of properties in the vicinity.</p>
10.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads, including responsibility and repair for any damage to the public road to the satisfaction of the planning authority, during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
11.	<p>The house shall be provided with noise insulation to an appropriate standard, having regard to the location of the site within Noise Zone C associated with Dublin Airport.</p> <p>Reason: In the interest of proper planning and sustainable development and residential amenity.</p>
12.	<p>The 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</p>

	<p>surface water from the site for the written agreement of the planning authority.</p> <p>Reason: To prevent flooding and in the interests of sustainable drainage.</p>
13.	<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:</p> <ul style="list-style-type: none"> (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; (b) Location of areas for construction site offices and staff facilities; (c) Details of site security fencing and hoardings; (d) Details of on-site car parking facilities for site workers during the course of construction; (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; (f) Measures to obviate queuing of construction traffic on the adjoining road network; (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network; (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works; (i) Provision of parking for existing properties at [specify locations] during the construction period; (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

	<p>(k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>(l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>(n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority;</p> <p>(o) The plan shall contain details of the intended construction practice for the basement area including noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interest of amenities, public health and safety and environmental protection</p>
14.	<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 or intended to be 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</p>

	Development Contribution Scheme made under section 48 of the Act be applied to the permission.
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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.



Emma Nevin
Planning Inspector

30th July 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319515-24		
Proposed Development Summary	A two-storey dwelling over basement to the rear and west of existing dwelling in an architectural conservation area and all associated site works including pedestrian and vehicle access from Church Mews, onsite parking spaces and site drainage works.		
Development Address	Rear of 15 The Rise, Malahide, Co. Dublin		
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	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes	X	Urban Development	EIA Mandatory EIAR required
No			
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	
Yes	X	Urban Development	One dwelling house

4. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	319515-24	
Proposed Development Summary	A two-storey dwelling over basement to the rear and west of existing dwelling in an architectural conservation area and all associated site works including pedestrian and vehicle access from Church Mews, onsite parking spaces and site drainage works.	
Development Address	Rear of 15 The Rise, Malahide, Co. Dublin	
The Board carries 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.		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>Proposal for 1 no residential unit on residential zoned land located in an urban area. However, the proposal is not considered exceptional in the context of the existing urban environment.</p> <p>No, the proposal will be connected to the existing water supply and will be connected to the existing public sewer. Surface water will also be connected to the public sewer.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>Site measuring 0.0363 ha. with a proposed floor area of 240 sq. m. However, this is not considered exceptional in the context of the existing urban environment.</p> <p>There is a mews dwelling under construction along the laneway, however there are no significant cumulative considerations in this regard.</p>	No
Location of the		No

