



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319577-24

<b>Development</b>	Demolition of garage, construction of mews dwelling, all associated site works, within curtilage of a Protected Structure.
<b>Location</b>	Rear of No. 51 Brighton Road, Terenure, Dublin 6
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	3122/24
<b>Applicant(s)</b>	El Patrick Thomas Holdings Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	EL Patrick Thomas Holdings Limited.
<b>Observer(s)</b>	Fiona O'Malley Grace O'Malley
<b>Date of Site Inspection</b>	24 <sup>th</sup> September 2024.

**Inspector**

Terence McLellan

## **1.0 Site Location and Description**

- 1.1. The subject site refers to the single storey garage located to the rear of 51 Brighton Road, Rathgar. 51 Brighton Road is a three storey above raised basement, mid terrace period property with a three storey rear return and a further single storey rear addition. The property is currently in multiple occupation, comprising eight flatbed dwellings. The property benefits from front and rear garden ground and is a Protected Structure along with all of the adjoining and adjacent properties along this stretch of Brighton Road. The single storey garage has a frontage onto Tower Avenue at the junction with Brighton Gardens. Several of the properties along Brighton Road have single storey garages to the rear with frontages onto Tower Avenue.
- 1.2. Tower Avenue is largely an access road which narrows as it moves northwards. The southern section between Brighton Road and Brighton Gardens accommodates some two storey terraced dwellings on one side of the road only (south and west). From Brighton Gardens northwards, Tower Avenue is narrow, characterised by the single storey garages to the rear of Brighton Road and the gable elevations of the end of terrace dwellings on the east/west orientated streets.

## **2.0 Proposed Development**

- 2.1.1. Planning permission is sought for the demolition of the existing single storey garage and the erection of a two storey, two bedroom mews house with internal courtyard at ground floor rear and a roof terrace where access would be provided by a second floor stairwell. Access would be provided via Tower Avenue and the proposal would incorporate the sub division of the existing rear garden at 51 Brighton Road.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Notification of the Decision to Refuse Permission was issued by Dublin City Council on 25<sup>th</sup> March 2024. Permission was refused for the following reason:

Having regard to the Z2 residential conservation zoning objective and its location on a restricted site in the grounds of a Protected Structure, it is

considered that the proposed mews dwelling, by reason of its height, scale, form and massing, would negatively impact on the character and setting of the Protected Structure, would constitute overdevelopment of the site and would create an unacceptable precedent along the rear lane on Tower Avenue. Furthermore, the development would also negatively affect the special character and appearance of the Protected Structures, given the proximity the rear elevation to the existing Protected Structure and the reduction in private amenity space, and as such would be contrary to Policy BHA2 which seeks to ensure development conserves and enhances Protected Structures and their curtilage and Policy BHA9 of the City Development Plan 2022-2028 which seeks to protect the special interest and character of all Dublin's Conservation Areas. The proposed development is therefore considered contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. The Planner's Report contains the following points of note:**

- The report notes that the garage/shed is not original to the site and there is no objection to its demolition.
- No precedent noted in the vicinity for mews development.
- The quantum of private open space provided is sufficient for a two bedroom home and although plot ratio is below the indicative range for conservation areas, the site constraints provide a rationale for this.
- While a compliant amount of open space would be left for 51 Brighton Road, much of this is formed by the strip of land along the rear return which may function largely as a circulation space with limited amenity value.
- The two storey element at the boundary with the additional stairwell could result in an overbearing impact from within 51 Brighton Road. The report notes that the Applicant's submission states that there would be no issues with overlooking, overbearance, or daylight.

- No car parking is proposed which is acceptable and adequate access for emergency services is provided. A pedestrian refuge to the front of the dwelling is required.
- Tower Avenue is not an existing mews lane. A minimum depth of rear garden is no longer required for mews development but there is a concern that the scale of the dwelling in relation to the boundary would result in inadequate separation between the proposed three storey element and the rear of no. 51 Brighton Road, resulting in an overbearing impact.
- There are concerns regarding the functionality and amenity value of the shared amenity space to No. 51 Brighton Road, due to its configuration.
- A social housing exemption certificate has been granted.

### 3.2.2. **Other Technical Reports**

- 3.2.3. **Conservation Officer (11.03.2024):** The information submitted with the application with regards to heritage is not considered to be sufficient and does not meet the minimum standards required by Section 15.15.2.3 of the CDP. It is noted that no suitably qualified conservation professional has been appointed to the project.
- 3.2.4. The proposed dwelling would be only 4.3m from the single storey return and would loom over the amenity space. It is also considered that the roof terrace would lead to overlooking issues and measures to mitigate this would increase the height and scale of the building and its impact on the Protected Structure.
- 3.2.5. The dwelling would be constructed adjacent to a historic stone boundary wall, the drawings do not indicate the depth of the foundations of these walls or how the new construction would adjoin them.
- 3.2.6. It is recommended that permission be refused on the basis of the unsympathetic subdivision of the historic plot and that the inappropriate height, scale, form and massing of the proposed mews building and garden at roof level would lead to an unacceptable adverse and injurious visual impact on the Protected Structure(s) and set an unacceptable precedent along Tower Avenue.
- 3.2.7. **Engineering (15.02.2024):** No objection, subject to standard conditions.

3.2.8. **Transport Planning (11.03.2024):** The car free nature of the development is acceptable having regard to the scale of the development and its accessible location. Further information was requested regarding:

- A revised ground floor plan to accommodate the provision of a pedestrian refuge to the front of the dwelling on Tower Avenue.
- Provision of two secure and sheltered bicycle parking spaces of at least 0.8m width each.
- Details of the means of access to the bicycle/bin storage to the front of the dwelling with no doors opening outwards onto the footpath/roadway.

3.2.9. Given the substantive reason for refusal, the request for Further Information was not actioned.

### 3.3. **Prescribed Bodies**

3.3.1. No response received.

### 3.4. **Third Party Observations**

3.4.1. Two observations were submitted in response to the planning application, raising similar points to the issues raised in observations on the appeal which are set out in detail in Section 6 below.

## 4.0 **Planning History**

### Subject Site

4.1.1. **Planning Authority Reference 1276/96:** Permission was refused for demolition of existing mews and erection of studio apartment based on the following reasons:

1. The proposed development, taken in conjunction with the use of the frontage house for multiple occupancy, would represent unacceptable overdevelopment of this site, as it would substantially fail to meet the requirements of the 1991 Dublin City Development Plan standards both in relation to private open space for the new mews apartment and also for the apartments located in the frontage house and as such would seriously injure

the amenities of property in the vicinity and as such would be contrary to the proper planning and development of the area.

2. Due to the restricted length of the rear garden of No. 51, Brighton Road, there is insufficient length to allow for a mews development which would comply with the requirements laid down in the 1991 Dublin City Development Plan for such mews developments and the proposal would therefore be contrary to the provisions of the Development Plan and contrary to the proper planning and development of the area.
3. The site fronts onto a narrow laneway without proper footpaths, at its junction with Tower Avenue and Brighton Gardens and is therefore not considered to be a suitable access for residential development and would therefore be contrary to the proper planning and development of the area.

#### Adjacent Sites

- 4.1.2. **53 Brighton Road – Planning Authority Reference 4104/02:** Permission was refused for a rear two-storey detached mews house and carport fronting onto rear laneway at 53 Brighton Road (a protected structure), for the following reasons:

1. The proposed development by reason of the insufficient length between the mews development and the existing building would be contrary to para. 14.15.0(m) laid down in the 1999 Dublin City Development Plan to ensure that 'an appropriate balance between the creation of environmental amenities in the mews dwelling and the protection of the character and environmental amenities of the main house and buildings must be maintained'. The proposal would by reason of its proximity and relationship to the protected structure, no. 53 Brighton Road would conflict with the established pattern of development in the area. Therefore, the proposed development would detract from the architectural quality and amenity of the area established by the adjoining protected structures; would seriously interfere with the amenities of this Residential Conservation Area and as such would be contrary to the requirements of Paragraph 14.2.2 of the 1999 Dublin City Development Plan and the proper planning and development of the area.

2. The proposed design and scale of the proposed mews house is incompatible with the laneway to the rear of Brighton Road and as such would negatively impact upon the established character of the (Z2) Residential Conservation Area. Therefore, the proposed development would be contrary to the Development Plan policy (paragraph 14.2.2) which requires that 'All new buildings should respect the character of the existing architecture in design, materials and scale, and preserve and enhance the character of the conservation area.' The proposed mews dwelling would seriously injure the residential amenities of property in the vicinity, would be visually incompatible with the surrounding area and would be contrary to the proper planning and development of the area.
3. The proposed development by reason of the sub-standard laneway width, as per paragraph 14.15.0 Dublin City Development Plan, 1999), with both exits from this lane being right angled and hazardous, is not considered to have a suitable access for residential development. The proposed development would endanger public safety by reason of a traffic hazard and, therefore, would be contrary to the proper planning and development of the area.

## **5.0 Policy Context**

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

- 5.1.1. The relevant Development Plan is the Dublin City Development Plan 2022-2028, which came into effect on 14th December 2022.
- 5.1.2. The site is zoned 'Z2' Residential Neighbourhoods (Conservation Areas) with a stated objective 'to protect and / or improve the amenities of residential conservation areas'. The principal land-use encouraged in residential conservation areas is housing. The parent dwelling, 51 Brighton Road, is a Protected Structure. All of the adjoining properties on Brighton Road are also Protected Structures.
- 5.1.3. Section 15.15.2.2 'Conservation Areas' provides that all planning applications for development in Conservation Areas shall:
  - Respect the existing setting and character of the surrounding area.



- Be cognisant and/ or complementary to the existing scale, building height and massing of the surrounding context.
- Protect the amenities of the surrounding properties and spaces.
- Provide for an assessment of the visual impact of the development in the surrounding context.
- Ensure materials and finishes are in keeping with the existing built environment.
- Positively contribute to the existing streetscape.

5.1.4. Policy BHA2 addresses development of Protected Structures, including development within the curtilage of such structures. The policy seeks to ensure that any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.

5.1.5. Policy BHA9 applies to development in Z2 'Conservation Areas' and provides that development within a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

5.1.6. Section 15.13.4 addresses 'Backland Housing' that includes mews houses.

5.1.7. Section 15.13.5 'Mews Developments' addresses Design and Layout, Height, Scale and Massing, Roofs and Access.

5.1.8. Section 15.13.5.1 'Design and Layout' states that the distance between the opposing windows of mews dwellings and of the main houses shall ensure a high level of privacy is provided and potential overlooking is minimised. Private open space shall be provided to the rear of the mews building to provide for adequate amenity space for both the original and proposed dwelling and shall be landscaped so as to provide for a quality residential environment. If the main house is in multiple occupancy, the amount of private open space remaining after the subdivision of the garden for a mews development shall meet both the private open space requirements for the main house divided into multiple dwellings and for mews development

5.1.9. Section 15.13.5.3 'Roofs' states that 'The roof profile for mews buildings should be simple and in keeping with the character of the area. The following roofs are suitable:

flat green or low-pitch metal roofs and double pitched slate roofs similar to the surviving mews building. All pitched roofs should run parallel with the mews lane with no ridge lines running perpendicular to the lane’.

- 5.1.10. It is the Policy of Dublin City Council under 5.5.2 Regeneration, Compact Growth and Densification: - QHSN5 Urban Consolidation: To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.

## **5.2. Natural Heritage Designations**

- 5.2.1. None of relevance.

## **5.3. EIA Screening**

- 5.3.1. See completed Form 2 on file. 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. A First Party appeal has been submitted by Hughes Planning and Development Consultants, for and on behalf of the Appellant, EL Patrick Thomas Holdings Limited, against the decision of Dublin City Council to refuse planning permission. The grounds of appeal can be summarised as follows:

#### Z2 Conservation Area

- The proposal is compliant with both the objective and vision for Z2 lands and has no impact on amenity or architectural quality, given its subordinate scale and location.

- The site is on the edge of the Z2 Conservation Area and within the rear garden of an existing house. The proposed dwelling would partially obscure views of the rear of the Protected Structure, which contributes significantly less to the visual amenity of the area compared to the front elevation which would be unaffected.
- Several of the adjoining dwellings have partially obscured views of their rear elevations due to extensions.

#### Overdevelopment

- The proposal falls substantially below the lower limit of the Plot Ratio range and sits only marginally above the upper limit of the Site Coverage range at 51.5% (against an upper limit of 50%). On balance, the proposal is substantially in compliance with the guiding figures in the CPD.
- The Planning Authority reports do not make direct reference to the manner in which the proposal is deemed to be overdevelopment.

#### Height, Scale, Form, and Massing

- The Planning Authority reports do not make direct reference to height, scale, form or massing as a standalone point and instead merge all elements together.
- The height of the proposed mews is subordinate to both No. 17 Brighton Gardens and No. 51 Brighton Road.
- The height is clearly subordinate to adjoining built form, has no impact on the primacy of the Protected Structure relative to the immediate public realm, does not compromise the contribution of the Protected Structure to the visual amenity of the immediate area, with views of the rear still possible and views of the front unchanged.
- The scale of the proposal provides the most effective means of developing an underutilised site and has been guided by the need to find an appropriate balance between efficient development and amenity.
- The form of the development has been guided by the site parameters (length/width) as well as existing built form (height/massing) and the need to ensure continued primacy of the Protected Structure.

- The massing has been designed to ensure that the new dwelling is clearly distinguishable from existing adjoining period buildings.

#### Appropriate Precedent

- The Planner's Report notes that there is no precedent development in the vicinity, this has held considerable weight in the Planning Authority's assessment of the subject proposal.
- The subject proposal provides for one modestly sized mews dwelling and the provision of additional residential properties and the establishment of new mews lanes should be actively supported.
- The Conservation Officer does not consider the majority of precedents cited in the Planning Report to represent comparable parameters with the proposed development as the sites provide a better balance of amenity between the new dwelling and the parent structure.
- The subject proposal has directly considered each of the identified precedent sites and is considered to present a design which is appropriate relative to the unique locational context of the subject site.
- The subject proposal does not provide for off-street vehicular parking.
- It is acknowledged that each of the identified precedents left the original parent dwelling with a garden that was either large, useable or both, but it is not considered that the subject proposal is comparable in this regard.
- The proposed dwelling will be built primarily on the footprint of an existing garage and would reduce the depth of this space by approximately two metres and the area from 98sqm to 76 sqm. This would have no undue impact on the amenity value of an external amenity space which serves a protected structure that has been separated into 8 no. apartments.
- This space currently acts as a communal amenity space and, should the structure revert back into single occupancy, the reduced space would remain compliant.

#### Conservation Impact

- The proposal complies with Policy BHA2 parts (a)-(j).

- In terms of part (d) it is considered that the site is of an appropriate size to accommodate a mews infill dwelling without undue impact on the Protected Structure due to the separation distance being achieved. The design avoids a pastiche and would be read as a contemporary and respectful addition to the streetscape. Materials would be appropriate to the setting of the parent dwelling/Protected Structure and area.
- In terms of part (j), ecological related documentation could be secured by condition if required.
- The subject proposal is considered to comply with Policy BHA9 parts 1-7 and it is stated that the development would improve the character and setting of the site, would improve the public realm and passive surveillance, would provide an appropriate architectural design relative to its location and would result in the loss of a limited amount of original fabric (boundary wall).
- The existing garden would be reduced to 76sqm, this is double the minimum requirement for the eight apartments of 51 Brighton Road. This space would also remain compliant if the property reverted back to single occupancy.
- Separation distances are acceptable at 4.2 metres from the single storey rear return and 19.2 metres from the main rear façade of 51 Brighton Road and it is not considered that any of the west facing windows would experience undue impacts.

#### Revised Design Option

- A revised design has been submitted as part of the appeal which reduces the size of the roof terrace from 37.5 sqm to 24 sqm in order to eliminate potential overlooking issues.

## **6.2. Planning Authority Response**

6.2.1. The Planning Authority request that the Board uphold the decision to refuse permission and that if permission is granted then the following conditions be imposed:

- Payment of a Section 48 development contribution
- Street naming and numbering

### 6.3. Observations

6.3.1. Observations have been received from Fiona O'Malley and Grace O'Malley, both of 12 Brighton Gardens, which is opposite the appeal site. The observations include the following main points:

- The proposal constitutes overdevelopment and would lead to further congestion in one of the highest population density suburbs of Dublin.
- There is a lack of space and accessibility in the narrow streets. This has caused problems for the emergency services in the past.
- Roads and paths in the area are abnormally narrow, further development would lead to further obstruction and congestion in addition to danger and increased risks to pedestrians and road users.
- Despite being car free, occupants could still have a car in addition to visitors, deliveries, and services. This would lead to more congestion and hazards.
- Concerns with traffic related issues on Brighton Road and the surrounding area have previously been raised with the Council (speeding, rat running, congestion, child safety) and a petition was submitted to deal with this issue.
- The Council consider the roads to be too narrow for paid/permit parking. A concession was allowing vehicles to partially park on the pavement to allow traffic to pass. This impacts on pedestrians who have to walk on the road, particularly affecting vulnerable users.
- There are difficulties with delivery, service, and construction vehicles accessing Brighton Gardens due to dangerous car parking. Cars regularly park on double yellow lines.
- The development is contrary to the character of the period residences in the area, many of which are Protected Structures.
- The rooftop garden would lead to overlooking and privacy impacts, despite the metal screen.
- The proposal would set an undesirable precedent.
- The development would detract from, and undermine the terrace's historical value, architectural appeal, and uniformity.
- The development would increase noise pollution and light pollution [sic].

- The development would have negative environmental consequences (increased traffic, congestion, pollution, erosion of existing biodiversity).
- The Verified View Montage submitted with the appeal highlights the intrusive and out of character design, which is prominent and invasive.
- Figure 4 of the Appellant's submission illustrates the narrowness of the path, which is made worse when vehicles are parked on it.
- The rear of Protected Structures would generally not compare to the front façade in terms of visual amenity, but it doesn't mean that they are less worthy of protection. The structure should be considered as a whole and the contrast between the front and rear facades provides important and interesting architectural, social, and historic comparisons.
- Comparing subtle and sympathetic extensions to the proposed dwelling is not a plausible comparison. The extensions are less obtrusive and injurious to the surrounding built form.

#### **6.4. Further Responses**

6.4.1. None.

### **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Design, Heritage, and Quantum of Development
- Residential Amenity
- Transport

#### **7.2. Design, Heritage, and Quantum of Development**

7.2.1. The primary concern of the Planning Authority is that the development, by reason of its location, height, scale, form and massing on a restricted site in the grounds of a Protected Structure, would negatively impact on the character and setting of the

Protected Structure, constituting overdevelopment of the site. Concerns are also raised that the development would negatively affect the special character and appearance of the Protected Structures, given the proximity the rear elevation to the existing Protected Structure and the reduction in private amenity space. These concerns are largely echoed by observers on the appeal who consider that whilst the rear of Protected Structures generally do not compare to the front façade in terms of visual amenity, they are no less worthy of protection and that the structure should be considered as a whole, concluding that the development would detract from and undermine the terrace's historical value, architectural appeal, and uniformity.

- 7.2.2. The Appellant considers that the proposal is compliant with the Z2 zoning objective and that it would have no impact on architectural quality or the Protected Structure due to its location and scale, noting that the site is on the edge of the Z2 Conservation Area and to the rear of the Protected Structure, which the Appellant considers contributes less to the visual amenity of the area compared to the front elevation which would be unaffected. It is also noted that several dwellings have obscured views of their rear elevations due to extensions. It is argued that the proposal is not overdevelopment, and that the height is subordinate to both the Protected Structure and the dwellings on Brighton Gardens, with no impact on the primacy of the Protected Structure or the visual amenity of the area. The Appellant considers that the development has been guided by the site parameters, existing built form, and the need to find an appropriate balance between efficient development and amenity.
- 7.2.3. With regard to site coverage and plot ratio, I note that site coverage would be slightly above the indicative range for conservation areas set out in Appendix 3 of the CDP, but that plot ratio would be slightly below the indicative range. The Planning Authority consider that this would be acceptable due to the constraints of the site. However, I have concerns regarding the height and massing of the proposed development along the east boundary, and the relationship between the proposed dwelling and the Protected Structure at 51 Brighton Road.
- 7.2.4. Policy BHA2 part (d) seeks to ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.



- 7.2.5. The proposed dwelling would occupy the full width of the plot created by the subdivision of the existing garden. The dwelling would rise to 6.4m in height at the roof parapet level, 7.4m in height to the top of the roof terrace screening, and 8.1m in height to the top of the second floor stairwell enclosure that provides access to the proposed roof terrace. The rear façade of the dwelling would be located just 4.3m from the single storey rear return of the Protected Structure and 12.7m from the three storey rear return, and whilst I note that a section of the proposed rear façade would be lower, accounting for the proposed internal courtyard (4.5m in height to the top of the privacy screen), I am of the opinion that the overall height, massing, and positioning of the dwelling immediately on and running the full length of the boundary, in such close proximity, is such that there would be an overbearing impact on 51 Brighton Road and that it would constitute overdevelopment of the site. In this regard, I consider that the development would harm the character and setting of the Protected Structure. The amendments submitted to the roof terrace and associated screening submitted as part of the appeal do not overcome these concerns.
- 7.2.6. In terms of detailed design, the Appellant states that the design avoids a pastiche and would be read as a contemporary and respectful addition to the streetscape, with materials appropriate to the setting. I would agree with the Appellant that a modern, contemporary approach to development could be acceptable, subject to being of a sufficiently high quality. Notwithstanding my clear concerns regarding the height, scale and massing of the proposal, I do not share the concerns of the Planning Authority or the observers with regards to the quality of the street facing facades and I am satisfied that an appropriate material palette could be refined and secured by condition in the event that the Board are minded to grant permission.
- 7.2.7. The Appellant considers that the lack of precedent has held considerable weight in the Planning Authority's assessment. The Conservation Officer does not consider the majority of precedents cited in the Planning Report to represent comparable parameters with the proposed development as the precedent sites provide a better balance of amenity between the new dwelling and the parent structure. The Appellant acknowledges that each of the identified precedents left the original parent dwelling with a garden that was either large, useable or both, but does not consider the subject proposal to be comparable in this regard. The Appellant therefore considers that the 76sqm garden left for 51 Brighton Road would be compliant for both multiple

occupation and single occupancy and that separation distances are acceptable, with no west facing windows experiencing undue impacts.

- 7.2.8. In this respect I note and agree with the concerns of the Planning Authority regarding the quality of the amenity space left for 51 Brighton Road. Whilst the extent of open space would meet the quantitative standards of the CDP for both single and multiple occupancy, I am of the view that a large section of the open space along the side of the rear return would function mainly as a circulatory space due to its narrowness and the overshadowing caused by the rear return. As such, the main open space of amenity value would be located at the end of the garden, next to the proposed development. It is my view that the height and massing of the development along this boundary would be overbearing on the shared amenity space and would compromise residential amenity. I consider that this would be further exacerbated by the second floor stairwell providing access to the roof terrace, which would emphasise the excessive height and massing immediately on the boundary.

### **7.3. Residential Amenity**

- 7.3.1. Various residential amenity concerns have been realised by observers on the appeal. Specifically, these concerns consider that the rooftop garden would lead to overlooking and privacy impacts, despite the metal screen and that the development would increase noise and light pollution. The amendments submitted as part of the appeal reduce the size of the roof terrace and set it back from the front and rear facades. I consider that the proposed screening would largely be ineffective, due to the level of perforation, however, I am satisfied that the location and set back of the roof terrace in relation to the adjoining properties is such that there would be no significant impacts in terms of overlooking.
- 7.3.2. I acknowledge that there would be a degree of noise disturbance during construction, however, this could be managed by condition in the event that the Board grant permission. Once completed, I do not consider that the development would result in any significant noise or light levels above that normally associated with domestic use.

### **7.4. Transport**

- 7.4.1. Various transport related concerns are raised by observers on the appeal including that the development would hinder vehicular access, result in further parking

problems, and that it would lead to congestion and increased hazards and risk to road users and pedestrians.

- 7.4.2. In terms of car parking, I note the relatively congested nature of the area from my site inspection, although this mainly related to the east-west orientated streets rather than Brighton Road or Tower Avenue. Tower Avenue itself is subject to parking controls. The site is well located for public transport, and I am satisfied with the car free nature of the development having regard to its scale, location, and the nearby public transport. As noted previously, this section of Tower Avenue narrows significantly and I would agree with the planning Authority that it functions largely as a shared space. As a result of its narrowness and the shared space function, it is a low speed environment and as such I do not consider that the proposed development would result in any significant risk to pedestrians or road users. In any event, the Council's Transport Planning section recommended Further Information to secure a revised ground floor plan to accommodate the provision of a pedestrian refuge to the front of the dwelling on Tower Avenue. In the event that the Board are minded to grant permission, I am satisfied that this could be secured by condition.

## **8.0 AA Screening**

- 8.1. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

## **9.0 Recommendation**

- 9.1. I recommend that the Board uphold the decision of Dublin City Council and refuse planning permission for the following reason:

## 10.0 Reasons and Considerations

Having regard to the Z2 residential conservation zoning objective and its location on a restricted site within the curtilage of a Protected Structure, it is considered that the proposed dwelling, by reason of its siting, height, scale, form, and massing, would negatively impact on the character and setting of the Protected Structure, would constitute overdevelopment of the site, and would be overbearing on the Protected Structure and shared amenity space at 51 Brighton Road. The development would therefore be contrary to Policy BHA2 and BHA9 of the Dublin City Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

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

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Terence McLellan  
Senior Planning Inspector

31<sup>st</sup> October 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	319577-23		
<b>Proposed Development Summary</b>	Demolition of garage, construction of mews dwelling, all associated site works, within curtilage of a protected structure.		
<b>Development Address</b>	Rear of No. 51 Brighton Road, Terenure, Dublin 6		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<b>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?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>		N/A	No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10 (b) (i), threshold >500 dwellings.	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Appendix 2

### Form 2

#### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-319577-24	
<b>Proposed Development Summary</b>	Demolition of garage, construction of mews dwelling, all associated site works, within curtilage of a protected structure.	
<b>Development Address</b>	Rear of No. 51 Brighton Road, Terenure, Dublin 6	
<p><b>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.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></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>The proposed development is for residential, in an area that is largely characterised by residential use. The proposed development would therefore not be exceptional in the context of the existing environment in terms of its nature.</p> <p>The development would not result in the production of any significant waste, emissions or pollutants.</p>	No.
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development</p>	<p>The development would generally be consistent with the scale of surrounding developments and would not be exceptional in the context of the existing environment.</p>	No.

<p>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>There would be no significant cumulative considerations with regards to existing and permitted projects/developments.</p>	
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The development would be located in a serviced residential area and would not have the potential to significantly impact on an ecologically sensitive site or location. There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other urban developments.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area. Whilst the development would have an impact on a Protected Structure, this would not be to the extent that would warrant an EIAR.</p>	<p>No.</p>
<p><b>Conclusion</b></p>		



<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>		
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**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_