



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320939-24

#### Development

Permission is sought for internal and external changes of the previously approved development (P.A. Ref. No. 2935/14) for a three-storey mews dwelling consisting of internal remodelling of floor plans, associated bin storage, roof terrace in lieu of balcony and a proposed pitched roof, together with proposed ancillary works to facilitate the development. This development is to the rear of No. 11 Mountpleasant Avenue Lower which is a Protected Structure (RPS Ref. No. 5481).

#### Location

No. 20 Bannaville, Ranelagh, Dublin 6, D06 WP82.

#### Planning Authority

Dublin City Council.

#### Planning Authority Reg. Ref.

4003/24.

#### Applicant(s)

Donal Groarke.

#### Type of Application

Planning Permission.

#### Planning Authority Decision

Refuse.

**Type of Appeal**

Third Party.

**Appellant(s)**

Donal Groarke.

**Observer(s)**

Karol and Muireann Fox.

**Date of Site Inspection**

11<sup>th</sup> day of December, 2024.

**Inspector**

Patricia M. Young.

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## 1.0 Site Location and Description

- 1.1. The subject appeal site relates to an independent subdivision that has a stated area of 112.2m<sup>2</sup> and is located to the rear of No. 11 Mountpleasant Avenue Lower, a period terrace dwelling that is a Protected Structure (RPS Ref. No. 5481). The original curtilage of No. 11 Mountpleasant Avenue Lower forms part of a larger terrace group of similarly protected period dwellings located on the eastern side of Mountpleasant Avenue Lower. The site is situated c190m to the north east of Richmond Hill and c280m from the junction of Richmond Hill/R114 junction both as the bird would fly, in the south Dublin city suburb of Ranelagh. The site has one frontage onto the public domain. This frontage addresses a restricted in width cul-de-sac lane that is referred in the submitted documentation as both 'Bannaville' and 'Bannaville Lane'. The site itself which has been subdivided from the rear garden area of No. 11 Mountpleasant Avenue has a given name of No. 20 Bannaville in the accompanying documentation. This subdivision severs the former access to the rear of No. 11 Mountpleasant Avenue from the aforementioned rear lane. The site at the time of inspection was under construction.
- 1.2. The adjoining properties of No. 10 Mountpleasant Avenue Lower to the north forms part of the aforementioned terrace and is a Protected Structure (RPS Ref. No. 5480). To the rear its once rear garden area which extended to the cul-de-sac lane has been subdivided and it now contains a modern two-storey mews dwelling with gable roof over (Note: No. 21 Bannaville).
- 1.3. To the south and south west of the site the adjoining period properties of No. 12 and 13 Mountpleasant Avenue Lower, both of which are afforded protection also as Protected Structures (Note: RPS Ref. No. 5482 and 5485) have some decades ago been subdivided to the rear and amalgamated into one independent plot. In its current state this plot contains a number of single storey structures and spaces associated with vehicle repair business (Kellys Garage). The plots associated with Kelly's Garage are subject to a concurrent appeal case ABP-321435-24.
- 1.4. Adjoining the eastern boundary of the site are double yellow lines with this extending in both directions. The opposite side of the lane contains a highly restricted in width pedestrian footpath which is also aligned by double yellow lines and contains *ad hoc* street lighting. There are a number of single storey period and later dwellings on the

opposite side of the lane as well as *ad hoc* parking and bin storage on the public domain. I observed that the adjoining stretch of public domain from Kelly's Garage northwards past the site is in a poor state of condition and that it serves two cul-de-sac vehicle spur lanes. In the wider vicinity of the appeal site there are a number of on-street permit / pay and display publicly provided car parking spaces. Few of which were available at the time of inspection.

- 1.5. The surrounding area has a strong period residential character, the site is in proximity to public transport including is situated c292m to the south west of LUAS Charlemont Stop as the bird would fly and it lies in walking distance of a variety of land uses that are synergistic to residential development.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for internal and external changes of the previously approved (P.A. Ref. No. 2935/14) three-storey mews dwelling consisting of internal remodelling of floor plans to suit client family requirements with the addition of an amended living area to ground floor, associated bin storage and utility room, roof terrace in lieu of balcony and a proposed pitched roof in place of a barrel vaulted profile, together with proposed ancillary works to facilitate the development at No. 20 Bannaville, a Protected Structure. The gross floor internal area is given as 120m<sup>2</sup> and no additional floor area is indicated in the submitted planning application form.
- 2.2. Additionally, the planning application form indicates a proposed plot ratio of 1.06 and a site coverage of 49%. The proposed materials consist of rendered walls and zinc clad roof with the external expression updated to be more reflective of current contemporary architectural mews developments. The accompanying drawings show that the pitched roof height dwelling as amended would have a maximum height of 8.07m, that the dwelling at its deepest point it would measure 17.338m adjoining the entire length of the northern boundary and a triangular shaped garden area of a stated 21.78m<sup>2</sup> would be provided on the south western rear portion of the site.
- 2.3. The proposed development site is situated to the rear of No. 11 Mountpleasant Avenue Lower which is also a Protected Structure.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. By order dated 2<sup>nd</sup> day of September, 2024, Dublin City Council **refused** permission for the proposed development as follows:

- “1. *Having regard to the increase in footprint of the ground floor extension and the subsequent reduction in the amount of usable private open space to the rear garden, It is considered that the proposed development would constitute over development of this site, with insufficient usable private open space to cater for the number of bedrooms, which would be contrary to Policy SPPR2 of the 2024 Sustainable Residential Development and Compact Settlement Guidelines, and contrary to the proper planning and sustainable development of the area.*
2. *Having regard to the alterations to the roof profile to provide for a front roof terrace, and also the provision of a large chimney on the rear elevation extension, which adjoins the protected structure to the rear at number 11 Mount Pleasant Avenue Lower, it is considered that the proposed development would form an incongruous form of development and would be out of character with the pattern of development of adjoining properties along Mount Pleasant Terrace and also Bannaville, and would detract from the character and setting of the adjoining protected structures. The proposed development would be contrary to Policy BHA2 and Policy BHA9, and section 15.13.5.2 of the Dublin City Development Plan 2022-2028, and contrary to the proper planning and sustainable development of the area.”*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The **Planning Officer's report** (22/04/2024) is the basis of the Planning Authority's decision and it includes the following comments:

- The private open space provision for future occupants is not acceptable.
- The roof terrace would be visually incongruous in its setting.

- A revised roof design is required.
- The positioning of a height chimney of the height proposed is not acceptable and is visually obtrusive.
- Collectively their concerns and those raised in the Interdepartmental reports cannot be addressed by way of further information.
- No AA or EIA issues arise.
- Concludes with a refusal of permission.

### 3.3. **Other Technical Reports**

- 3.3.1. The **Conservation Officer's report** (21/08/2024) concludes with a request for additional information. Of particular concern to them is the lack of information provided on surviving period-built fabric on site and the implications of the proposed amendments on it.
- 3.3.2. The Transportation Planning Division report dated the (14/08/2024) concludes with a request for additional information. This includes the reduction of the vehicle entrance to a maximum of 3m, that the on-site parking provision be 5m by 3m in their dimensions and that 2 cycle spaces be provided. They also note that storage of waste bins due to the substandard nature of the lane would not be acceptable.
- 3.3.3. The **Drainage Division** report (29/07/2024), no objection, subject to safeguards.

### 3.4. **Prescribed Bodies**

- 3.4.1. None.

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

- 3.5.1. The Planning Authority received two Third-Party Observations during the course of its determination of this planning application. I consider that the main issues raised in them can be summarised as follows: the proposed development would give rise to overdevelopment of the site; it would give rise to adverse residential and visual amenity impacts on properties in its vicinity; the standard of future residential amenity for occupants of the amended dwelling are poor; diminishment of property value as well as civil matter.

## 4.0 Planning History

### 4.1. Site – Recent & Relevant

**P.A. Ref. No. WEB2223/24 (Rear of No. 20 Bannaville, a Protected Structure):**

Planning permission was **granted** for a development described as consisting of the proposed internal and external changes of the previously approved (P.A. Ref. No. 2935/14). They are summarised as follows:

- (i) Increase in ground floor area of approved dwelling from 45 sq. m. to 48 sq. m. resulting in a private rear garden space of 34 sq.m. Kitchen/living space and associated bin storage and utility room are proposed at ground floor level.
- (ii) Reconfiguration of first and second floor layouts to provide 3 no. bedrooms at first floor and a home office and an "in roof" winter garden (10 sq.m.) at the second-floor level. The proposed winter garden is enclosed on all sides.
- (iii) Increase in proposed car parking space and provision of 2 no. off street bike parking spaces.
- (iv) Reduction in roof profile from previously approved barrel vault roof to an in line pitched roof.
- (v) All ancillary works necessary to facilitate the development.

I note to the Board the requirements of Condition No. 3 and 4 of the notification to grant permission state:

*"3. The development shall be revised as follows: a) The pitched roof shall be revised to match the ridge height and roof pitch and eaves height of the adjoining mews house, No 21 Bannaville. A flat roofed element may be required to the rear of the two storey form to allow for the alteration to the roof profile. b) The "in roof" winter garden (10 sqm) at the second floor level shall be omitted in entirety. Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority. Reason: In the interest of the character of the building and the visual amenity of the area.*

Decision date: 20/11/2024.



4.2. **No. 11 Mountpleasant, a Protected Structure (Note: this appeal site originally formed part of the curtilage of this period terrace property).**

- **ABP-302471-18 (P.A. Ref. No.2969/18):**

On appeal to the Board permission was **granted** for the retention of 5 no. double glazed 6 over 6 timber framed sliding sash windows to this existing period dwelling. Date: 20/11/2018.

- **P.A. Ref. No. 2935/14:**

Permission was **granted** for a development consisting of development the construction of a three storey three-bedroom mews dwelling to the rear of No. 11 Mountpleasant Avenue Lower, a Protected Structure, where the top storey is accommodated within the roof space with external terrace to front and a single off street car parking space.

The submitted planning application form accompanying this application indicates a site area of 109.7m<sup>2</sup>; that the three level mews dwelling would have a gross floor area of 137m<sup>2</sup>; that the plot ratio would be 1.25 and the site coverage would be 56.5%. Additionally, the submitted drawings show that the mews dwelling would have an overall maximum height of 8.23m which appears to match that of the two-storey gable shaped mews dwelling to the rear of No. 10 Mountpleasant Avenue Lower, a Protected Structure. It also showed that at ground floor level the lateral separation distance to the new subdivision boundary with the host site of No. 11 Mountpleasant Avenue Lower would range between 4.8m to 7.5m and at third floor level it included a south facing (addressing the mews lane) roof terrace as well as a reduced parapet level of 6.281m with the main third floor level setback c1.385m from the main southern elevation of the proposed mews dwelling. Further at first floor level the design included a terrace at first floor level facing onto the mews lane.

Decision date: 19/08/2014.

*\*Note: on the 14/08/2019 an extension of time until the 24<sup>th</sup> day of December, 2024, was permitted for this grant of permission under P.A. Ref. No. 2935/14/X1.*

- **P.A. Ref. No. 4241/07:** Of note permission was **granted** for the construction of a three-bedroom mews dwelling to the rear of No. 11 Mountpleasant Avenue Lower. Decision date: 05/09/2007.

#### 4.3. **Setting – Adjoining Site to the South**

##### **Kelly's Garage, 13A Mount Pleasant Avenue Lower.**

**ABP-321319-24 (P.A. Ref. No. 4244/24):** Concurrently on appeal with the Board is a development consisting of the demolition of the existing single-storey commercial buildings and the construction of a terrace of 4 no. two-bedroom dwellings with a study, part two-storey and part three-storey with velux rooflights. The terrace has a maximum parapet height of 7.1 metres with setbacks to the upper level on Bannaville. The provision of private open space is accommodated for each dwelling at three levels with privacy screens, 1 no. vehicular parking, bicycle parking spaces, bin storage is located within the front curtilage of each dwelling. All with associated site and landscape works.

Of note the proposed development was refused for the following stated reasons:

- “1. *The proposed development by means of its scale, massing and proximity to the rear of the Protected Structures, is overly dominant, would not conserve nor enhance the special architectural character of the setting of the Protected Structures and their curtilage. Therefore the proposed works would cause serious injury to the special architectural character and legibility of the Protected Structures, their setting and their curtilage as well as the wider Conservation Areas and would contravene Policies BHA2 (a), (b), (c), d), (e), (g), BHA9 (4), (6) and BHA14 of the Dublin City Council Development Plan 2022-2028. The proposed development would therefore set an undesirable precedent for similar type development, would devalue property in the vicinity and would be contrary to the proper planning and sustainable development of the area.*
2. *The proposed development by virtue of the increase in height, scale and massing would constitute an overbearing and visually obtrusive feature when viewed from the rear amenity area of the adjacent dwellings on Mount Pleasant Avenue and Bannaville. It is considered that the proposal is out of character with the established pattern of development in the area and would constitute*

*over development of the site. It is therefore considered that the proposed development would materially contravene the zoning objective of the area ‘to protect and/or improve the amenities of residential conservation areas’, would seriously injure the amenities and depreciate the value of property in the vicinity and would thereby be contrary to the proper planning and sustainable development of the area.”*

Decision date: 30.10.2024.

I also note to the Board that the planning application for the proposed four number 2-bed terrace dwellings sought under this application relates to a site area of 335m<sup>2</sup>; in total the total gross floor area of this residential terrace is given as 442m<sup>2</sup>; the demolition of existing buildings is given as 237m<sup>2</sup>; the plot ratio of 1:1.86; and, a site coverage of 78% is also given. The maximum height of each of the terrace dwellings is given as 8.751m and the terrace fronts onto the southernmost stretch of Bannaville to the east of its junction with Mountpleasant Avenue Lower with the southernmost elevation having a staggered parapet height of between 7.025m and 5.75m.

## **5.0 Policy Context**

### **5.1. Local**

- 5.1.1. The appeal site is zoned ‘Z2’ Residential Neighbourhoods (Conservation Area) in the Dublin City Development Plan, 2022-2028. The given objective for ‘Z2’ lands is: *‘to protect and/or improve the amenities of residential conservation areas’*.
- 5.1.2. Section 14.7.2 of the Development Plan states that: *“residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale”; “the overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals”; and “the guiding principle is to enhance the architectural quality of the streetscape and the area, and to protect the residential character of the area.”*
- 5.1.3. Section 11.5.1 in relation to Protected Structures states that: *“protection also extends to any features specified as being in the attendant grounds including boundary treatments.”* Policy BHA2 of the Development Plan sets out that development will

conserve and enhance Protected Structures from any works that would negatively impact upon their special character and appearance.

5.1.4. Section 11.5.3 of the Development Plan provides guidance on Conservation Areas with Policy BHA 9 seeking to protect their special interest and character. This Development Plan policy also states that: *“development within or affecting 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.”*

5.1.5. Chapter 3 of the Development Plan deals with the matter of Climate Change.

5.1.6. Chapter 15 of the Development Plan sets out the development management standards. It includes:

- Section 15.11 deals with ancillary residential accommodation.
- Section 15.13.5 deals with mews developments.

5.1.7. Section 4.3.8 Appendix 5 of the Development Plan sets out the standards for mews parking.

5.1.8. Appendix 18 of the Development Plan sets out the standards and guidance for ancillary residential accommodation.

5.1.9. Volume 4 of the Development Plan provides the Record of Protected Structures.

## 5.2. Other

- Sustainable Residential Development and Compact Settlement Guidelines, 2024.
- Architectural Heritage Protection, Guidelines for Planning Authorities, 2011.
- Climate Action Plan, 2024.

## 5.3. Natural Heritage Designations

5.3.1. None within the zone of influence.

## 5.4. EIA Screening

5.4.1. See Appendix 1 – EIA Pre-Screening Form 1 attached.

- 5.4.2. Having regard to the modest nature, scale and extent of the development proposed which consists to alterations to an already permitted mews dwelling which is under construction, the site's location outside of any sensitive location specified in article 109(4) of the Planning and Development Regulations, 2001, (as amended), and consisting of a brownfield site that is located within an established built-up suburban area to the south Dublin city which is served by an existing connections to public infrastructure, the nature of the receiving environment, the existing pattern of development in the vicinity, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development or in combination with any other plans or projects.
- 5.4.3. Conclusion: The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required in this appeal case.

## **6.0 The Appeal**

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

- 6.1.1. The grounds of this First-Party appeal can be summarised as follows:

#### **Planning Authority's Decision**

- The Board is sought to overturn the decision of the Planning Authority.

#### **Alternative Design**

- The proposed development as lodged accords with the proper planning and sustainable development of the area, however, amendments are provided to it should the Board share the concerns of the Planning Authority which gave rise to the refusal of the amendments to a previously permitted mews dwelling.

#### **Amended Design Sought Under this Planning Application**

- The amendments are consistent with relevant planning provisions.
- The amended roof profile compliments the character of its setting.
- The purpose of the amended design is to meet the accommodation needs of its future occupants.

## **Residential Amenity Impact**

- The proposed development would not give rise to any injury to residential amenity of properties in its vicinity.
- The quantum and quality of private amenity open space accords with relevant planning provision standards.

## **Built Heritage**

- No works are proposed to No. 11 Mountpleasant Avenue Lower, a Protected Structure. Additionally, the proposed amendments would not adversely impact any such structure, and the site is not part of any Architectural Conservation Area.

## **6.2. Planning Authority Response**

- 6.2.1. The response from the Planning Authority seeks that the Board uphold its decision. However, should the Board be minded to grant permission it requests that it includes Section 48 contribution and a naming condition.

## **6.3. Observations**

- 6.3.1. The Board received an observation from Karol and Muireann Fox on the 23<sup>rd</sup> day of October, 2024. It can be summarised as follows:

### **Procedural/Civil**

- No consent has been provided by the registered landowner for the making of this application.

### **Bedroom Provision**

- The design accommodates four bedrooms and not three as described in the public notices.

### **Design and Context**

- This proposal represents overdevelopment of this site.
- The proposed development lacks regard to its historic setting.
- The proposed development does not have regard to reducing impacts on properties in its vicinity.

### **Residential Amenity Impact**

- The proposed development would give rise to material injury of adjoining private amenity spaces, including the provision of chimney immediately alongside the adjoining properties private amenity space would seriously diminish its useability.
- The amendments proposed would materially impact daylight to adjoining properties, including their outdoor and internal amenities.
- The rooftop balcony would give rise to overlooking of neighbouring properties.

### **Substandard Development**

- This proposal would result in substandard residential amenity for future occupants as a result of the deficiencies in its outdoor private amenity space provision.

### **Drainage**

- The overdevelopment of this site gives rise to drainage concerns and there is little open space as well as natural drainage solutions proposed in the amended design.

### **Built Heritage**

- The proposed chimney in position and design is out of character with its setting.

### **Other**

- The proposed development would be visually overbearing.
- Undesirable precedent.
- The proposed dwelling would be the tallest building in its vicinity.
- This dwelling should be appropriate in size, scale, and design to its setting. The amended dwelling is not.

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. I am satisfied that the key issues in this appeal case largely relate to the Planning Authority's two given reasons for refusal alongside the residential amenity impact concerns raised by the Third-Party Observer in their submission to the Board. However, I note that the Third-Party Observer and the Planning Authority's

interdepartmental reports also raise a number of matters that I consider also require comment. I therefore propose to deal with them under the heading of 'Other Matters Arising' and the matter of 'Appropriate Assessment' at the end my assessment.

- 7.1.2. Additionally, having regard to the planning history of the site which includes a grant of permission for a mews dwelling on this site under P.A. Ref. No. 2935/14 for which this planning application seeks amendments too I note that this grant of permission was in the process of implementation at the time of my inspection. I consider that the principle of the residential development in the form of more compact development on brownfield serviced and residentially zoned land within mature suburban locations like this. A location that I note is well served by public transport and other land uses synergistic to residential development aligns with local through to national planning provisions which in a collective manner support compact development as well as more efficient use of such lands, subject to safeguards.
- 7.1.3. I also note that the site forms part of a setting that includes examples of recent mews type developments. With this including examples of mews dwellings at No. 21 Bannaville, the adjoining site to the north as well as No. 16 Bannaville.
- 7.1.4. These examples like the site front onto the western side of a restricted in width cul-de-sac lane that extends northwards from its corner intersection demarcated on its northwestern corner by Kellys Garage (Note: 13A Mountpleasant Avenue Lower) and where it meets Mountpleasant Terrace.
- 7.1.5. There are also examples of ancillary buildings in the rearmost garden areas of adjoining and neighbouring Mountpleasant Avenue Lower properties that have not been subject to subdivision that back onto the western side of this stretch of lane.
- 7.1.6. I further observed that the adjoining stretch of public lane despite its limited and variable width through to its poor condition also provides access to several other properties in particular two historic spur lanes off it that include period terraces. Moreover, the surrounding area is characterised by residential development mainly comprised of period building stock. As such I consider that the permitted parent mews dwelling on this site under P.A. Ref. No. 2935/14 is consistent with the pattern of development within the site's immediate setting.
- 7.1.7. Given the above, I consider that the principle of mews development at this site is consistent not only with planning provisions and guidance of this site subject to



standard safeguards for a setting that includes several Protected Structures as well as is zoned a Residential Conservation Area. But also, with the pattern of development that characterises its immediate and wider setting.

- 7.1.8. Before I commence the main assessment, it is necessary in my view to comment upon the procedural and landownership concerns raised by the Third Observer in their submission to the Board. In this regard, I note that they contend that this application has been made by a person who is not the legal owner of the site and that the application itself has not been accompanied by a letter of consent of the owner for the making of this application.
- 7.1.9. They support this contention by setting out in writing details of who appears to be in ownership of this site as registered at the time this application was made and when their observation was made to the Board. This information however is not supported by a copy of the land registry from which they have obtained this information or any other documentation which could substantiate this concern. Alongside support the case that this planning application should have been accompanied by a letter of consent from who they purport to be the owner of the site at the time this application was made to the Planning Authority.
- 7.1.10. I note to the Board that the applicant for this planning application is set out under question three of the planning application form as 'Donal Groarke' and they are the First Party Appellant in this appeal case. I have noted the recent as well as more historic planning applications made in relation to this site with these lodged by a different Third Party including most recently applications made with the same surname.
- 7.1.11. While I am cognisant that under the Planning Regulations as amended, a planning applicant who is not the legal owner of the land or structure in question must submit a letter of consent from the owner in order to make the planning application and where an applicant is made by an applicant that is not the landowner and without the submission of a letter of consent, the application must be invalidated. The Planning Authority, who have the remit of carrying out an examination of the validity of a planning application deemed that the planning application was valid and raised no concerns that the information setting out the landowner required clarification. The Third Party Observer in this case has not provided an evidentiary proof that Donal

Groarke is not the legal owner of the site and in turn does not have the necessary legal consent to the making of this application, however, the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts.

7.1.12. I also note that Section 34(13) of the Planning and Development Act, 2000, (as amended), states that '*a person shall not be entitled solely by reason of a permission under section 37(g) to carry out any development*'. This subsection makes it clear that the grant of permission does not relieve the applicant of the necessity of obtaining other permits or licences which statutes or regulations or common law may necessitate. However, should the Board be minded to grant permission for the proposed development as a precaution it could first seek assurance on this matter by way of a request for further information. I do not propose to comment further on this particular concern.

7.1.13. I propose to deal with the substantive issues in this appeal case under the following broad headings.

- First Planning Authority Reason For Refusal
- Second Planning Authority Reason For Refusal
- Amenity Impact on Setting

For clarity, this assessment has had regard to the amendments proposed by the First Party Appellant as part of their appeal submission to the Board which seek to overcome the concerns of the Planning Authority in their reason for refusal. The inclusion of an 'amended design option' is not an uncommon practice in the appeal process and in this case I do not consider that it gives rise to any material considerations for Third Parties, in particular as it omits elements of the design that had the potential to give rise to residential and visual amenity concerns through to it does not give rise above ground floor level any substantive changes in height, overall built form and any additional significant changes in voids above ground level that have potential to give rise to overlooking concerns. Additionally, the Planning Authority have been given an opportunity to comment on the amended design as have Third Parties Observers.

## 7.2. First Planning Authority Reason For Refusal

- 7.2.1. The Planning Authority's first reason for refusal as set out under Section 3.1.1 of this report above relates to the increased ground floor footprint of the amended dwelling unit and the associated reduction in quantitative private open space provision. In this regard it is considered that the private open space amenity would not meet the minimum standards set out under SPPR 2 of the Sustainable Residential Development and Compact Settlement Guidelines, 2024. For this reason, it was considered that the proposed development would be contrary to the proper planning and sustainable development of the area.
- 7.2.2. The Planning Authority's Planning Officer raised as a concern in their report that the increased floor area at ground floor level would give rise to a rear garden area of 21.78m<sup>2</sup> in comparison to the 39m<sup>2</sup> provided in the parent permission P.A. Ref. No. 2935/14 as granted. Of additional concern to them was the internal layout of the amended mews dwelling in that they considered that it provided an increase in bedroom number from three to four. Though the public notices and drawings do not indicate that this is the case. They also considered that the overall layout and built form of the ground floor level together with the boundary heights and treatment was such that it would further diminish the quality of the residential amenity of the proposed private amenity space by way of overshadowing.
- 7.2.3. I note that the Development Plan under Section 15.11.3 on the matter of private open space amenity states that for houses it: *"is usually provided by way of private gardens to the rear of a house"* and that *"a minimum standard of 10 sq.m. of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. Generally, up to 60-70 sq. m. of rear garden area is considered sufficient for houses in the city"*. I note a lesser quantum of 5–8 sq.m. of private open space per bedspace will normally be applied for houses within the inner city. The suburban site setting is remote from what is considered to be inner city Dublin. As such applying this standard in this case would not be consistent with local planning provisions.
- 7.2.4. Having regard to the proposed internal layout of the amended three storey mews dwelling I do not consider it unreasonable of the Planning Authority's Planning Officer to raise concerns that it has the potential to function as a four-bedroom dwelling unit.

- 7.2.5. In either scenario, the three- or four- bedroom mews dwelling given that the rooms indicated as bedroom or with potential for bedrooms has a 6 or 8 bedspace capacity. Neither scenario, i.e. 60m<sup>2</sup> or 80m<sup>2</sup> to the rear of the amended dwellings main rear elevation meets Section 15.11.3 the minimum standards.
- 7.2.6. However, Section 15.11.3 of the Development Plan also provides a degree of flexibility in its consideration of private amenity open space provision. It indicates that these standards may be relaxed on a case-by-case basis subject to a qualitative analysis of the proposed development.
- 7.2.7. It is also of relevance that Appendix 18 of the Development Plan in relation to ancillary residential accommodation on the matter of ground floor rear extensions sets out that consideration will be had to their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining. Moreover, it indicates that it should also match or complement the main house.
- 7.2.8. As set out the amendments sought to the parent permission seek to enlarge the ground floor footprint as part of providing for a larger living space at this level with this achieved through the reduction in the private amenity space provision to the rear. These amendments in my view significantly reduce the area of private amenity open space provision remaining to the rear of the dwelling by 17.22m<sup>2</sup> to the above stated 21.78m<sup>2</sup>.
- 7.2.9. This quantum of private open space referred too, relates to the private amenity open space provision remaining at and accessible from the ground floor level as amended with none of it positioned to the rear footprint of the amended dwelling. The remaining triangular shaped private open space whilst located in the south western corner of the site would be heavily overshadowed by the height of the southern and rear boundary treatments which appear to both exceed 3m. As well as by the height of the amended mews dwellings staggered in alignment adjoining single storey rear projection which has a flat roofed height of 3.13m as well as includes a 4.8m in height chimney feature and the two storey with attic level gable shaped above ground floor level which lies roughly to its east will together as a result of the site's orientation and relationship to other structures would suffer from significant overshadowing.
- 7.2.10. I also note to the Board that there is a concurrent appeal case with them for consideration, i.e. ABP-321319-24. This relates to the adjoining c355m<sup>2</sup> area of lands

associated with Kelly's Garage and were historically part of the original curtilages of No.s 12 and 13 Mountpleasant Avenue Lower, on which a terrace group of four was refused by the Planning Authority for the reasons set out under Section 4.3 of this report above. The First Party in this concurrent appeal case seek that the Board overturn the Planning Authority's decision to refuse permission for the said the terrace group of four that would replace the existing structures and spaces on site associated with Kelly's Garage. This terrace group would be divided into four new individual plots with a roughly north south alignment and would address the southernmost stretch of Bannaville/Bannaville Lane. The accompanying suite of drawings for this development indicates that this terrace group would have a combined length of c27m, a maximum ridge height of 8.75m and would include a graduated built form to its rear where it contains a single storey flat roof element with roof terrace over with 1.8m rear side boundary privacy panels associated with above ground level additional private amenity space. The staggered built form to the rear would include rear projections that meet with what is indicated as the southern rear side boundary.

7.2.11. The documentation accompanying this application now on appeal with the Board includes a shadow analysis. This sets out the existing and proposed context which also includes the proposed amendments sought under this subject planning application *in situ*. Of concern it indicates that the ground level private amenity space that would be provided under this proposal, if permitted, would be significantly overshadowed throughout the day on the 21<sup>st</sup> day of March. It also shows that it would be adversely impacted from noon, 2pm and 5pm on the 21<sup>st</sup> day of June. Moreover, it shows that the amended design would result in significant additional overshadowing on the remaining rear private amenity space of No. 11 Mountpleasant Avenue Lower, a Protected Structure.

7.2.12. Further, the studies of the daylight, sunlight through to overshadowing impacts of the proposed development accompanying this subject appeal case are limited in their scope and detail. On this point they show what is purported to be the existing context, i.e. an undeveloped area to the rear of No. 11 Mountpleasant Avenue Lower, a Protected Structure, and the proposed amended mews dwelling sought. They do not include an examination of the permitted impacts arising from the parent mews dwelling P.A. Ref. No. 2935/14. Which as said at the time of site inspection was in the process of being implemented.

- 7.2.13. The technical assessment of daylight performance provided is not based on the performance approaches to daylight provision outlined in guides like A New European Standard for Daylighting in Buildings IS EN17037:2018, UK National Annex BS EN17037:2019 and the associated BRE Guide 209 2022 Edition (June 2022), or any relevant future standards or guidance specific to the Irish context which I note is advocated under Chapter 5 of the Sustainable and Compact Settlements, Guidelines for Planning Authorities.
- 7.2.14. Whilst it appears to suggest that the proposed development on the rear spaces of the neighbouring property of No. 21 Bannaville to the north would meet the recommended 2 hours sunlight requirements on 21<sup>st</sup> March as provided for in the BRE guidelines it fails to examine the impact of the amendments proposed including the provision of a single storey projection along the entirety of the northern boundary. It does not indicate the potential impact of the amended design on the adjoining No. 11 Mountpleasant Avenue Lower, a Protected Structure, despite this design extending the single storey projection to the rear boundary of this property with this including the placement of 4.8m in height chimney feature at this location.
- 7.2.15. Similarly, it does not quantify this for No. 12 Mountpleasant Avenue Lower, also a Protected Structure, or does it quantify the additional impact it would have on the internal amenity spaces of adjoining mews dwelling of No. 21 Bannaville. Nor does the analysis appear to have any cognisance of topography through to the significant height of manmade structures that would bound the southern, western and northern boundaries of this site. On this point the site appears to have different ground levels to the rear than those of adjoining properties.
- 7.2.16. I note that Appendix 18 of the Development Plan also provides an indicative plot ratio and site coverage under Table 2 for conservation areas. This I note is also an aid in considering backland and mews type developments. The plot ratio of 1.06 and site coverage of 49% is indicated in the accompanying planning application form. These figures without detailed examination appear to support that the proposed development is one that is consistent with the indicative plot ratio of 1.5-2.0 and site coverage of 45-50% set out under Appendix 18 of Development Plan.
- 7.2.17. When examined in the context of the proposed development they do not reflect that the actual nature and extent of development sought includes a car port/indented car

parking provision at ground level. This, as designed, is an enclosed space in the round with limited voids.

- 7.2.18. Of further note Section 15.13.4 of the Development Plan which deals with the matter of backland housing though supportive of innovative design sets out that this type of development should comply with relevant residential design standards including for private open space provision. With this including amenity space provision.
- 7.2.19. The amended design in terms of outdoor amenity space also includes a roof terrace with a given area of 21.355m<sup>2</sup>. This additional space is above ground floor level and would likely achieve more qualitative levels of daylighting which would be a positive in terms of the provision of functionally useable private and passive private amenity space for future occupants.
- 7.2.20. Notwithstanding, at attic level/third floor level height together with its positioning relative to properties in its vicinity it has the potential to give rise to residential amenity nuisances for existing and future properties in its vicinity. Particularly by way of overlooking, perception of overlooking through to noise nuisance. I also note that it is a type of private amenity open space provision that is not one that generally is considered as part of what is traditionally considered as meeting the definition of private amenity space in that it is not located to the rear of the dwelling. Moreover, having regard to the setting it is not a private amenity space provision that is consistent with the pattern of development in what is largely a period laid out suburban setting, including in terms of latter mews type dwelling insertions where permitted.
- 7.2.21. In relation to the flat roof over the first-floor level extension is not indicated as being accessible from the first-floor level rear windows despite their low cill height. In relation to this element, I recommend that the Board should it be minded to grant permission that it includes an appropriately worded condition that restricts access onto this space for limited maintenance purposes only. As a side note I consider that the design of this roof given the actual site coverage of buildings and spaces as amended misses an opportunity for the provision of a green roof over this element. Such a provision would be consistent with more climate resilient management of surface water management on a site which would have limited deep soil remaining.
- 7.2.22. Further, in relation to mews type developments Section 15.13.5.1 of the Development Plan states that: "*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” and importantly in relation to Protected Structures that: “where new boundary walls are proposed between the principal building and the associated mews / coach house, the proposed boundary line should be located at an appropriate distance from the building line of the Protected Structure so as to provide an appropriate amenity space for the Protected Structure”.*

7.2.23. While I accept that it is appropriate that the amended design has updated the overall architectural design response of the permitted mews dwelling from that which was approved under the parent grant of permission so that it is more reflective of its time. Alongside includes amendments that I accept seek to integrate it in a more sensitive manner with what is a sensitive to change architecturally rich period urbanscape, particularly by way of revising the roof shape and profile from barrel vaulted to pitch. Notwithstanding, as discussed above I am not convinced that it has been demonstrated that the amendments would not give rise to further undue disamenity to the remaining private amenity space of No. 11 Mountpleasant Avenue Lower reduced private amenity space by way of the increased levels of overshadowing that would arise over and above that of the parent permission.

7.2.24. Nor am I convinced that the treatment of the rear boundary is one that is subservient or is site-built heritage, visually and residentially appropriate in the context of No. 11 Mountpleasant Avenue Lower, a Protected Structure. This on the basis of the rear boundary of the amended design including a chimney feature of a 4.83m height and width of c2.2m. This feature when taken cumulatively with the albeit sunken rear single storey projection that has a given height of 3.138m, the three-storey nature of the mews dwelling whose main rear elevation would be setback c7.5m from the rear boundary of this Protected Structure and the height of the boundary treatments which in themselves appear to have not maintained any period building fabric associated with the original curtilage of No. 11 Mountpleasant Avenue Lower would materially and adversely diminish the special character of this period dwelling as it survives in a manner that is excessive in comparison to the parent permission. In this regard it would not be visually subservient, it would give rise to undue visual overbearance through to the level of overshadowing that would arise from it on the limited rear private amenity space would diminish its residential amenity for its occupants.



- 7.2.25. Given the terrace location of No. 11 Mountpleasant Avenue Lower I raise these as concerns also for the adjoining as well as neighbouring Protected Structures of No. 12 and No. 14 Mountpleasant Avenue Lower.
- 7.2.26. In relation to this concern I note that Policy BHA2 of the Development Plan subsection (d) seeks that development conserve and enhance Protected Structures as well as requires any development affecting their setting are sensitively sited and designed. Through to Policy BHA2 of the Development Plan also seeks that developments protect and retain important elements of built heritage relating to them with this including but not limited to boundary walls.
- 7.2.27. Further, Policy BHA9 of the Development Plan requires development within or affecting a Conservation Area must contribute positively to its character and that contemporary designs should be of an exceptional design quality as well as harmonise with such areas.
- 7.2.28. While I consider that the proposed development could be improved by the omission of the chimney stack feature. I consider that its omission would give rise to an improvement to the level of overshadowing that would arise from the proposed development as well as would reduce the visual overbearance and lack of subservience to the Protected Structure and its period terrace group of Protected Structures of the amended mews dwelling sought.
- 7.2.29. At a national planning level, I am cognisant that the Sustainable and Compact Settlement Guidelines for Planning Authorities, 2024, in relation to private open space for houses state that: *“well-designed private open space forms an integral part of houses and is essential for health and wellbeing”*.
- 7.2.30. It also indicates that minimum private open space standards in Development Plans often reflect the traditional suburban separation standard and width of a dwelling. It advocates applying: *“a more graduated and flexible approach that supports the development of compact housing and takes account of the value of well-designed private and semi-private open space”*.
- 7.2.31. Under SPPR 2 of the said Guidelines it sets out a minimum private open space standards for three-bedroom houses of 40-sq.m. Given the concerns raised by the Planning Authority and the Third-Party Observer in relation to the proposed mews house being of a size and internal spatial design as well as layout that it could be used

at a minimum as a four-bedroom house, I therefore note that SPPR 2 of the said Guidelines sets out a requirement of 50-sq.m. for four plus bedroom house.

7.2.32. Notwithstanding, SPPR 2 of the said Guidelines also provides flexibility on sites of any size or urban infill schemes on smaller sites (e.g. sites of up to 0.25ha) for the private open space standard may be relaxed in part or whole, on a case-by-case basis. With this subject to overall design quality through to proximity to public open space and that residents will enjoy a high standard of amenity.

7.2.33. I note to the Board that the appeal site area is 112.2m<sup>2</sup> in the accompanying planning application form and drawings. Given the modest size of the subject site which falls below 0.25ha I consider it reasonable for the Board to consider the merits of the private open space flexibility provided for under SPPR 2 of the said Guidelines.

7.2.34. In this regard, while I concur with the Planning Authority that the quantum of private as well as quality of private open space amenity at ground floor falls significantly below both local and the recommended standards set out under the said Guidelines. Alongside I consider that the potential redevelopment of the Kelly's Garage site which benefits from two public road frontages (Note: 'Bannaville'/'Bannaville Lane' on its southern and eastern side) as proposed under the concurrent appeal case with the Board (Note: ABP-321319-24) if permitted, or similar developed in the future has the potential to give rise to additional overshadowing of this site, in this context the appellant puts forward two areas of private open space that has a combined area of 39m<sup>2</sup>. This falls just short of the SPPR 2 standard for a three-bedroom dwelling which the drawings submitted with the documentation on this file indicate is sought under this planning application. I also accept that a level of overshadowing is to be expected given this site's setting, notwithstanding, I consider that the appellant puts forward significant quantitative as well as qualitative improvements in their alternative design and layout for the ground floor level which in my view overcomes the qualitative concerns of the private amenity space provision at ground floor level but also the substantive concerns in terms of impact on the built heritage, residential and visual amenities of what is a highly sensitive to change site context.

7.2.35. I consider that the alternative built form, height, mass, volume, and positioning of the mews dwelling revised envelope not only gives rise to an increase in private amenity open space to 30m<sup>2</sup> at ground floor level to the rear of the amended mews dwelling.

It also results in a provision of private open space that would be less impacted throughout the year by overshadowing through to it significantly reduces the potential for overshadowing arising from the proposed amendments particularly to No. 11 Mountpleasant Avenue Lower and No. 21A Bannaville as well as other residential neighbouring properties in its immediate vicinity.

- 7.2.36. Further, reduction in overshadowing and visual overbearance arises from the omission of the chimney stack as well as the setback of the rear most ground floor level elevation by 3.759m from the rear boundary at its nearest point through to the flat roof over this level over having an overall height of 3.85m with the space behind the parapet not proposed for additional amenity space for future occupants. The projecting first floor level roof also includes a lantern feature that allows for greater light penetration with its external expression largely comprised of clear glazing.
- 7.2.37. Additionally, the first-floor level rear elevation is setback c7.5m from the rear boundary and the overall ridge height is slightly below that of the parent permission at a given height of 8.07m. With the overall rear built form, mass and volume of the alternative design been reduced in its extent and scale of its external envelope. Alongside the main roof structure over having a pitched profile which is a dominant characteristic of historic and later residential building stock in this area.
- 7.2.38. Moreover, at third floor/attic level the provision of a winter garden (Note: 10m<sup>2</sup>) is proposed in place of the roof terrace results in the additional residential as well as visual amenity improvements for future occupants and its setting.
- 7.2.39. In particular it removes a roof terrace that was considered to be a visually incongruous feature in the context of this historic urban landscape by the Planning Authority and as discussed in the assessment above not a feature that was consistent with its visual context.
- 7.2.40. Further, this winter garden would result in no overlooking of properties in its vicinity through to it would attenuate noise from its use by future occupants of the mews dwelling.
- 7.2.41. As such I consider that these amendments cumulative when taken together with the more contemporary of its time architectural aesthetic and palette of materials of materials would give rise to qualitative residential amenity provision for future occupants within the flexibility afforded by SPPR 2. I also consider that it would not

give rise any significant or materially adverse impacts on the residential amenity, visual amenity and the built heritage amenity of what is a sensitive to change site and setting when compared with that of the parent permission or that would be considered to be such that they would be contrary to the proper planning and sustainable development of the area. In this regard it presents a more balanced design approach in terms of improving residential amenities and protecting established residential amenities in a zoned residential neighbourhood conservation area under the Development Plan.

7.2.42. Further, within the vicinity of the site there are a number of public and private passive as well as recreational outdoor public amenity spaces/provisions in place that could be used by future occupants of the mews dwelling.

7.2.43. Having regards to the above I consider that the alternative design addresses the concerns that are expressed in the Planning Authority's first reason for refusal in a manner that is consistent of with the proper planning as well as sustainable development of the area. I also consider that the alternative design option puts forward minor amendments that as said give rise to less undue residential, visual, and built heritage amenity impacts in comparison to the design lodged with this application.

7.2.44. Conclusion:

Having regard to the above I considerations I am of the view that the 'amended design option' provided by the appellant as part of their appeal submission results in a proposed development that provides a reasonable balance between improving the residential amenities of the mews dwelling permitted under P.A. Ref. No. 2935/14 in a manner that is consistent with the proper planning and sustainable development of this sensitive to change site context. This consideration, however, is subject to the safeguard of the inclusion of a condition setting out a restriction on further development occurring within the curtilage of the mews dwelling without a prior grant of permission given the restricted private amenity open space provisions that would remain through to the potential built heritage, residential and visual impacts such a development could give rise to in its setting. I consider that this is a 'New Issue' in the context of the determination of this appeal case.

### **7.3. Second Planning Authority Reason For Refusal**

7.3.1. The Planning Authority's second and final reason for refusal in summary considered that the alterations to the roof profile to provide for a front roof terrace, and also the

provision of a large chimney on the rear elevation extension, which adjoins the protected structure to the rear at No 11 Mount Pleasant Avenue Lower, it is considered that the proposed development would form an incongruous form of development and would be out of character with the pattern of development of adjoining properties along Mount Pleasant Terrace and also Bannaville, and would detract from the character and setting of the adjoining protected structures. For these reasons, the Planning Authority considered that the proposed development would be contrary to Policy BHA2 and Policy BHA9, and Section 15.13.5.2 of the Dublin City Development Plan, 2022-2028, as well as would be contrary to the proper planning and sustainable development of the area.

- 7.3.2. I consider that these concerns overlap with the previous section of this assessment where I have concluded that the alternative design option submitted by the appellant as part of their appeal submission overcomes concerns that included whether or not it would be contrary to local planning provisions. I have already discussed the proposed development as lodged and as amended by the First Party's appeal submission to the Board. The second reason for refusal in my view does not give rise to any new issues that warrant examination in relation to Policy BHA2 and BHA9 of the Development Plan. Additionally, I have considered that in relation to Section 15.13.5.2 of the Development Plan which largely relates to considerations centred on the height, scale, and massing of new mews buildings. With it setting out that they should complement the character of both the mews lane and main building with regard to scale, massing, height, building depth, roof treatment and materials.
- 7.3.3. In addition to my considerations set out under Section 7.2 of this assessment I note that the amended design includes a reduction in height by 0.16m and its roof form has changed to a more subservient pitched profile and shape in comparison to the barrel-vaulted design permitted under P.A. Ref. No. 2935/14.
- 7.3.4. This is only marginally higher than the No. 21 Bannaville which I note has a pitched roof profile and shape.
- 7.3.5. Alongside above ground floor level the alternative design has at first and second floor level increased lateral separation distances to the rear boundary and rear elevation of the original rear envelope of No. 11 Mountpleasant Avenue Lower as well as other neighbouring Mountpleasant Avenue Lower Protected Structures in its vicinity.

- 7.3.6. Overall, while I concur with the Planning Authority that the proposed development as lodged is visually incongruous, overbearing alongside does not achieve a reasonable balance in terms of improving residential amenity for the parent permitted mews dwelling and safeguarding the residential, visual and built heritage amenities of its setting, as said I am of the opinion that these concerns have been overcome by the amendments provided by the First Party in their appeal submission to the Board.
- 7.3.7. I am also of the view that the design as amended still is of its time, provides a built form, height, solid to void treatment, roof profile over through to its qualitative palette of external materials that are not out of character with the pattern of development, particularly the Protected Structures in its vicinity, the existing dwellings on this cul-de-sac for which it would form part of its streetscape scene or as viewed as part of the provide domain of properties in its vicinity. Further, as said there is a variety of different built forms and responses to the rear of the period terrace group that No. 11 Mountpleasant Avenue Lower forms part of irrespective of whether their original historic plots have been subject to subdivision or not.
- 7.3.8. Conclusion: For the reasons set out above I consider that the alternative design response is one that is consistent with Policy BHA2, Policy BHA9 and Section 15.13.5.2 of the Development Plan and therefore in turn accords with the proper planning and sustainable development of the area.

#### 7.4. **Other Matters Arising**

- 7.4.1. **Use of the Attic:** Given the concerns raised in relation to the private open space amenity being substandard in quantum and nature to serve a four-bedroom dwelling as examined in the main assessment above I recommend that should the Board be minded to grant permission that they include a condition that restricts the use of the attic space to that indicate in the amended plans. I also consider that the Board as a precaution include a condition restricting the use of the attic space for human habitation unless it complies with the current Building Regulations.
- 7.4.2. **Residential Amenity Impacts – Other:** I raise a concern that this proposal includes the insertion of a window opening on the southern first floor level of the amended mews dwelling as lodged and as revised by the appellant in their appeal submission to the Board. Whereas the parent permission included no window openings on this elevation. The provision of a window opening at this level and at this position has the

potential to impact not only on achieving a coherent redevelopment of this mews lane particularly given that there is no overall masterplan for brownfield/infill sites that are residentially zoned and that address the subject lane from which access to this mews dwelling is dependent.

Moreover, the drawings do not clarify whether this window opening would be fitted with transparent glazing or opaque glazing through to have restricted opening as part of measures incorporated into the design to ensure no undue overlooking or perception of overlooking arises.

It is also unclear in my view whether or not its positioning interferes with a shared boundary for which the applicant has the benefit of consent.

I consider that the overlooking concerns is not a new issue, however, I do consider the potential for this window to give rise to difficulties for achieving a coherent redevelopment of the Kelly's Garage site is.

I recommend that the Board omit this window which is shown in the proposed development as lodged and as amended with the interior revised to provide lighting/ventilation to the WC impacted or for this room to be repurposed as storage associated with the bedroom space it is attached to.

**7.4.3. Car Parking Provision and Waste Storage Provision:** The Planning Authority's Transportation Planning Division report whilst raising no concerns in relation to the provision of a separate c1.2m pedestrian access onto Bannaville Lane raised concerns that the vehicle entrance width at 3.14m exceed the maximum standard permitted at such a location under the Development Plan. I similarly raise no concerns in relation to this access.

However, concern is raised by them that local planning provisions seek that vehicle entrances shall be designed to avoid creation of a traffic hazard for passing traffic.

They also raised a concern that the depth of the car port/garage at 5.505m when taken together with the bin storage which would reduce it to c4.75m had the potential to give rise to parked vehicles overhanging the public lane.

Their report concluded with a request that the design be revised to overcome these concerns.

The amended design put forward shows a vehicle entrance measuring 3m in the front elevation which I note is the maximum permitted under the Development Plan. Alongside it shows an internal width of the bin/car and bike store would have a width of 3.14m and a depth of 5m to where it would meet the bin storage/bike storage area.

I consider that these revisions are acceptable given the additional information request of the Transportation Planning Division and their recommendation that no storage of waste bins occur along the public lane. With this I observed being an issue at this particular location and causing obstruction for users of the public domain of Bannaville/Bannaville Lane.

It also addresses the concern for potential overhanging of vehicles parked in the curtilage of this amended mews dwelling which, if occurred, would I accept would give rise to road safety, traffic hazard as well as obstruction issues for users of the adjoining public lane. This I consider would not be an acceptable outcome.

Conclusion: As set out in the main assessment I recommend that permission be granted subject to the amendments set out in the amended design submitted by the appellant in their appeal submission to the Board. I additionally recommend as a precaution that the vehicle entrance serving the amended mews dwelling is restricted to a maximum of 3m and that the dimensions for the car parking space internally within the shared bin, car parking space and bicycle parking area be a minimum clear depth of 5m and minimum width of 3m of unobstructed space. That the design of this combined waste storage, cycle parking and car parking provision is of a design that allows for sufficient circulation space outside of the car parking space to ensure that future occupants have access to the two bicycle parking spaces which are shown in the appellants amended design submitted with this application as “2 No. Bike Parking Wall” and bin storage for three standard wheelie bins. These concerns could be reasonably addressed by the use of appropriately worded conditions in the interests of compliance with the applicable Development Plan provisions through to in the interests of road safety.

#### **7.4.4. Additional Conservation/Built Heritage Matters:**

The Planning Authority’s Conservation Officer raised concerns that no information had been provided on the existing site conditions in relation to the extent of surviving period building layers.



I also acknowledge that the parent permission for which this planning application relates was granted over a decade ago and that in the intervening time local through to national planning provisions as well as guidance have significantly evolved.

It would also appear that at some point since the planning application subject of this appeal was made that implementation of the parent permission P.A. Ref. No. 2935/14 commenced. On this point I observed during my inspection of the site and its setting that ground and various construction works have occurred on site with a large portion of the main external shell of the mews dwelling is now *in situ*.

I note to the Board that the grant of permission was not subject to any conditions relating to any surviving period building layers that may have existed on this site, particularly in its boundary treatments up to recent times.

Additionally, I observed no evidence of surviving period building layers present on site, including boundary walls. I therefore consider any opportunity to incorporate or safeguard these as part of the amended development has unfortunately been lost.

I note that there is a condition for the agreement of the palette of external finishes, treatments and materials included as part of the parent grant of permission. The imposition of such a condition accord with the ensuring an appropriate standard of development in the setting of several Protected Structures through to its 'Z2' Residential Neighbourhood Conservation Area setting as provided for under the Development Plan.

- 7.4.5. **Planning History:** I consider that the amended design provided with the appellant in their appeal submission by way of it including a reduced width of the vehicle entrance, limiting any dependence for storage of waste receptacles on the adjoining public domain by providing an appropriate space within the curtilage of the site for the same through to the provision of two bicycle spaces provides improvements to the parent permission as permitted and the proposed development as lodged.

I also note to the Board that since this planning application was made that the Planning Authority permitted the development sought under P.A. Ref. No. WEB2223/24 on this site. This development consisted of internal and external changes of the previously approved (P.A. Ref. No. 2935/14). As set out under Section 4 of this report above the grant of permission imposed by the Planning Authority for P.A. Ref. No. WEB2223/24 included Condition No. 3. This condition requires a revised roof design for written

agreement of the Planning Authority so that its ridge height, pitch, and eaves matched the adjoining mews dwelling of No. 21 Bannaville through to it sought the omission of the "in roof" winter garden in its entirety. I note that the reasons given were in the interest of the character of the building and the visual amenity of the area.

Additionally, Condition No. 4 of the notification to grant permission for P.A. Ref. No. WEB2223/24 restricted the use of the attic space for human habitation unless it complies with the current Building Regulations for the stated reason of providing an adequate standard of development. As well as Condition No. 5 restricted the width of the vehicle entrance requiring also the provision of two cycle spaces and Condition No. 6 sets out the Planning Authority's conservation requirements.

Further, as previously noted in the assessment above concurrently on appeal with the Board is appeal case ABP-321319-24 (P.A. Ref. No. 4244/24). By way of this appeal the First Party Appellant seeks that the Board overturn the decision to refuse permission for the demolition of the existing single-storey commercial buildings and the construction of a terrace of 4 no. two-bedroom dwellings. The first reason for refusal raises concerns with the scale, massing, and proximity of the proposed terrace to Protected Structures which the Planning Authority considered would not conserve or enhance their architectural character or conservation area setting. It was also considered that it would be contrary with Development Plan policy provisions (Note: *Policies BHA2 (a), (b), (c), d), (e), (g), BHA9 (4), (6) and BHA14*), would set an undesirable precedent for similar development as well as would devalue properties in its vicinity. For these reasons it was considered that it would be contrary to the proper planning and sustainable development of the area.

The second reason for refusal gives similar concerns including that the proposed development in the view of the Planning Authority would as a result of its increase in height, scale, and massing, would constitute an overbearing and visually obtrusive feature when viewed from the rear amenity area of the adjacent dwellings on Mount Pleasant Avenue and Bannaville. It considered that the proposal is out of character with the established pattern of development in the area and would constitute over development of the site. It also considered that the proposed development would materially contravene the zoning objective of the area 'to protect and/or improve the amenities of residential conservation areas' as well as would seriously injure the

amenities and depreciate the value of property in the vicinity and would thereby be contrary to the proper planning and sustainable development of the area.

I have had regard to the planning history of the site and its setting in the consideration of this appeal case which includes an examination of other planning applications decided on in the vicinity. However, for the most part the planning history of the site setting largely relates to developments that were considered a considerable time in the past. With the local through to national planning provisions in relation to residential development having evolved in the interim time.

Additionally, it would appear that Bannaville/Bannaville Lane's substandard nature has also further deteriorated in this time and there is no indication that there are any significant improvements proposed for it. Through to as said there is no masterplan for mews development along the stretch of lane this appeal site forms part of.

Conclusion: It is my consideration that this appeal should be considered on its own merits.

**Climate Resilience (New Issue):** The Planning Authority did not raise any concerns that the proposed development did not clarify climate resilience measures, outside of the Planning Authority's Drainage Division recommendation that the proposed development comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 and that the development incorporate sustainable drainage systems for the management of surface water.

I am also cognisant that the proposed development is accompanied by a drainage design that includes a modest in size rainwater planters to the front and rear totalling of 4.1m<sup>3</sup> proposed for the amended mews dwelling. Notwithstanding, this provision there is further opportunities to improve the capturing of surface water on site including in terms of the design of the flat roofs through to on-site storage of collected surface water through to its use as part of the day-to-day water usage for future occupants of the proposed dwelling.

Of further concern while I note that the Development Plan does not specifically require Climate Action and Energy Statement for a residential development of this nature. However, under Section 15.4.1 of the Development Plan which deals with the matter of healthy Placemaking it indicates that the principles to create climate resilient environments are important to achieving this. In this regard it states that: "all

*developments will be encouraged to support the creation and nurturing of sustainable neighbourhoods and healthy communities”.*

Further, Section 15.4.3 of the Development Plan which deals with the matters of sustainability and climate action states that: *“good design has a key role to play in both reducing waste and emissions which contribute to climate change”* and that *“development proposals will be expected to minimise energy use and emissions that contribute to climate change during the lifecycle of the development with an aspiration towards zero carbon, and ensure the reduction, re-use or recycling of resources and materials, including water, waste and aggregates”*. This section of the Development Plan also sets out key sustainable design principles to consider alongside green infrastructure in the consideration of development applications.

This approach I consider is consistent with Climate Action Plan, 24, and other higher-level planning and environmental provisions on such matters.

I am of the view that the documentation provided with this application and on appeal does not provide sufficient clarity that the amended design includes measures that ensure that this development would be amended to be consistent with this section of the Development Plan and in turn that it would be consistent with Chapter 3 of the Development Plan. In particular its objectives CAO1 which seeks implementation of Dublin City Council’s Climate Change Action Plan and CAO2 which varies the Development Plan so that it aligns with new guidance as well as legislative approaches to climate action.

Conclusion: On the basis of the above should the Board be minded to grant permission I recommend that it include appropriately worded conditions to deal with these concerns in the interests of ensuring this developments consistency with relevant sustainable and climate resilience measures for developments.

**Development Contributions:** I note to the Board that the proposed development as submitted with this application has a reduced gross floor area in comparison to the parent grant of permission P.A. Ref. No. 2935/14 which had a given gross floor area of 137m<sup>2</sup>.

I also note to the Board that the gross floor area given for the amended mews dwelling as lodged is given as 120m<sup>2</sup> and that the revised design submitted with this application includes a further reduction in gross floor area to 110.3m<sup>2</sup>.

Additionally, the parent permission includes conditions requiring payment of Section 48 and 49 contributions under Condition No.s 11 and 12.

Moreover, the parent permission also includes under Condition No. 4 subsection (c) a requirement to pay all costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

I consider that subject to compliance with these conditions attached to the parent permission that no additional contributions are applicable given the nature and extent of the development sought under this application as lodged and as revised by the suggested amendments set out in the appellants appeal submission.

- 7.4.6. **Precedent:** The Third-Party Observer raises concerns that this development if permitted as lodged or as amended would give rise to an undesirable precedent for other similar developments in the surrounding area.

In relation to this concern, I note that neither the Local Authority nor An Bord Pleanála are bound by precedent decisions and each application/appeal is assessed on its own merits against relevant planning provisions at the time of their determination. As said in the assessment above such provisions evolve over time and are not static.

Moreover, urbanscapes like this are also subject to change despite in this case the surviving highly intact period context.

I therefore do not consider that if the Board is minded to grant permission particularly subject to the revisions set out in the appellants appeal submission that it would give rise to any undesirable precedent for other similar developments.

- 7.4.7. **Civil Matters (New Issue):** As a precaution and given that this site is bound on three sides by Third Party lands that appears may include its demarcation by way of shared boundaries, I recommend that the Board include as part of any grant of permission an advisory note setting out the provisions of Section 34(13) of the Planning and Development Act, 2000, as amended. For clarity purposes I reiterate that it states that: *‘a person shall not be entitled solely by reason of a permission under this section to carry out any development’*.

- 7.4.8. **Naming:** The Planning Authority in their response to the grounds of appeal request that the Board include a condition requiring agreement of the naming of this mews

dwelling. I consider that such a condition is reasonable and accords with the Development Plan provisions including Section 15.8.9 while generally relating to residential estates notwithstanding stating that: “*the planning authority will approve the naming of residential developments in order to avoid confusion with similar names in other locations*” which in itself ensures urban legibility as part of a healthy placemaking in existing urbanscapes.

Notwithstanding, the parent grant of permission requires this to be agreed with the Planning Authority under Condition No. 7.

I also note that this application provides an address of No. 20 Bannaville as well as an Eircode D06 WP82 which relates specifically to the rear subdivision of No. 11 Mountpleasant Avenue Lower.

Having regards to the above I do not consider it necessary to include such a condition in this case subject to the safeguard of including a condition that seeks that outside of the amended design approved that the proposed development is carried out in compliance with the grant of permission P.A. Ref. No. 2935/14 in full.

## 8.0 AA Screening

- 8.1. I have considered the proposed development which consists of amendments to a previously permitted mews dwelling which includes but is not limited to an increased ground floor level footprint to the rear of a group of Protected Structures which includes but is not limited to No. 11 Mountpleasant Avenue Lower and forming part of a zoned residential conservation area located in a serviced area of Dublin 6 in light of the requirements of Section 177U of the Planning & Development Act, 2000, as amended.
- 8.2. The subject site is not located within or adjacent any Natura 2000 sites designated Special Areas of Conservation (SAC) or Special Protection Areas (SPA). The closest Natura 2000 sites are the Special Area of Conservation: South Dublin Bay (Site Code: 000210) and the Special Protection Areas: South Dublin Bay and River Tolka Estuary (Site Code: 004024) which are both located circa 3.3km to the east as the bird would fly.
- 8.3. The proposed development is located in a mature serviced suburban area to the south Dublin city centre's core and is a brownfield site formerly consisting of the rear garden

area of Protected Structure, No. 11 Mountpleasant Avenue Lower, with the proposed development consisting of modest amendments to the previously approved three storey mews dwelling (Note: P.A. Ref. No. 2935/14) permitted on land that forms part of this now slightly larger site area of 112m<sup>2</sup> that fronts onto the public domain of 'Bannaville'/'Bannaville Lane'. It also includes ancillary works associated with significant ground and construction works already undertaken to date as part of implementing P.A. Ref. No. 2935/14.

- 8.4. No significant nature conservation concerns were raised as part of this appeal case and including by the Planning Authority in their determination of this planning application. Similarly, this was the case with the previously permitted mews dwelling on this site. Moreover, no significant nature conservation concerns are raised by any of the Parties in this appeal.
- 8.5. Having considered the nature, scale, extent, and location of the development I am satisfied it can be eliminated from further assessment as there is no conceivable risk to any Natura 2000 Site.
- 8.6. The reasons for my reaching of this conclusion is based on the modest nature of the development sought and its location in a suburban area of Dublin city, served by mains drainage, the surface water drainage measures incorporated into the design, the limited additional footprint of buildings that would arise, the distance to any Natura 2000 sites, and the suburban nature of intervening landscapes / habitats as well as the absence of ecological pathways to any Natura 2000 site including sites that are located at a further distance to those identified above. There are also significant improvements to the treatment of foul water as part of the current on-going major upgrading works to Ringsend Wastewater Treatment Plan. These works will enable it to treat increasing volumes to the required standards.
- 8.7. I conclude that on the basis of objective information the proposed development would not have a likely significant effect on any Natura 2000 site(s) either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment Stage 2 under Section 177V of the Planning & Development Act 2000 as amended is not required.

## 9.0 Recommendation

- 9.1. I recommend a **grant** of planning permission. I note that Condition No. 3 is a bespoke condition and that the requirements of Condition No.s 5 and 6 relate to 'New Issues' raised in the assessment above.

## 10.0 Reasons and Considerations

Having regard to the design, nature and extent of the proposed amendments to a previously approved three storey mews dwelling (Note: P.A. Ref. No. 2935/14) to the residential conservation area zoning objective for the site and its setting, the relationship between the amended mews dwelling relative to the several Protected Structures that form part of its visual context, the existing pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the visual amenities of the area, the residential amenity of property in the vicinity, the character and setting of Protected Structures in its vicinity and that it would be acceptable in terms of traffic 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, and as revised by the drawings submitted to the Board on the 30<sup>th</sup> day of September, 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 development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.



2. The development outside of the alterations set out in the plans and particulars lodged with this application and as amended by the drawings received by the Board on the 30<sup>th</sup> day of September, 2024, shall comply with the conditions attached to the Board grant of permission P.A. Ref. No. 2935/14 in full.

**Reason:** In the interest of clarity.

3. The proposed development shall be amended as follows:

- (a) The first-floor level window serving the Master bedroom labelled 10 in the revised drawings submitted to the Board on the 30<sup>th</sup> day of September, 2024, shall be omitted.

- (b) Revised plans shall be submitted that clearly show that the vehicle entrance shall be a maximum width of 3m, that the car parking space shall be 5m depth and 3m width and that there is sufficient room around this space to allow access to the bicycle spaces and bin storage provision without obstruction of the car parking space.

Revised drawings showing compliance with this requirement together with an alternative means of ventilation and daylighting shall be submitted to, and agreed in writing with, the planning authority within three months of the Boards notification to grant permission.

**Reason:** In the interests of residential amenity and orderly development.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

**Reason:** In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and

services, and shall be agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interest of public health and in the interests of sustainable development.

6. Within three months of this order to grant permission the developer shall submit for the written agreement of the planning authority a Climate Action and Energy Statement for the proposed news dwelling.

**Reason:** In the interest of proper planning, sustainable and climate resilient development.

**Advisory Note:** Section 34(13) of the Planning and Development Act, 2000, as amended, states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*'.

*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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Patricia M. Young  
Planning Inspector

**4<sup>th</sup> day of February, 2025.**

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	<b>ABP-320939-24</b>		
<b>Proposed Development</b> <b>Summary</b>	<b>PROTECTED STRUCTURE: Three storey mews with roof terrace and all associated site works.</b>		
<b>Development Address</b>	<b>No. 20 Bannaville, Ranelagh, Dublin 6, D06 WP82.</b>		
<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>	✓
		<b>No</b>	Tick if relevant. 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)?</b>			
<b>Yes</b>	✓	<i>Class 10 (b) (iv) Urban Development. (Threshold is Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.)</i>	Proceed to Q3.
<b>No</b>			<i>No further action required</i>
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	✓		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			

Yes		Subthreshold. Proposal consists of amendments to permitted and currently being implemented news dwelling by ground and construction works (Note: P.A. Ref. No. 2935/14).	Preliminary examination not required.
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5. Has Schedule 7A information been submitted?		
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: \_\_\_\_\_

Date: 4<sup>th</sup> day of February, 2025.