



Development

PROTECTED STRUCTURE:

Construction of three terraced houses with terraces and balconies, partial removal of stone boundary wall and all associated site works.

Location

Rear of 19-21, Leeson Park, Dublin 6

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

WEB2699/25

Applicant(s)

Kevin Codd, Best Brick Ltd and Paddy McGrath

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First and Third-Party Normal Planning Appeal

Appellant(s)

Yvonne O'Meara
Kevin Codd, Best Brick Ltd and Paddy McGrath

Observer(s)

Emmet Stokes

Date of Site Inspection

15th April 2026

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1.0 Site Location and Description

- 1.1. The 0.04ha site is situated on the southside of Dublin city, 380m south of the Grand Canal and 200m southwest of the R138. Ranelagh Gardens Park is situated 200m to the south and Dartmouth Square 200m to the north.
- 1.2. The site comprises part of the rear gardens of 3no. dwellings which face onto and are accessed from Leeson Park at the east which are referred to as nos. 19-21 Leeson Park. The dwellings and their respective areas of open space immediately to their rear do not form part of the site. The dwellings form a terrace with a fourth dwelling at the south and the curtilage of that property is entirely outside of the site. Those dwellings comprise red-brick three and four storey structures with vehicular access and parking located in a shared area to the front. They reflect the general pattern of residential development on Leeson Park with red brick dwellings along both sides of the tree-lined road, the majority of which are protected structures including the dwellings at nos. 19-21 and all adjacent sites along Leeson Park (RPS ref No.4331, RPS ref. No.4330, and RPS ref No.4329)
- 1.3. There is a narrow, gated vehicular laneway situated at the north of the site which provides pedestrian access to the side of no 19. It then turns south along the rear/western boundary of the site and is gated again further south where it meets an infill housing scheme at Berystede. At the time of the inspection this gate was closed and access was not gained to the internal area of the site. The site was however visible from the gate and I am satisfied that the inspection was adequate to enable a thorough inspection.
- 1.4. The boundaries of the site comprise stone walls c. 1.5m in height which surround domestic spaces finished with grass and ornamental trees.

2.0 Proposed Development

- 2.1. Planning permission is sought for the following:
 - construction of 3no. 3-bed terraced houses arranged over lower ground floor, ground floor, first floor and second floor with terraces and balconies on the eastern and western elevations,

- Partial removal of the existing stone boundary wall along the western and northern boundary with the lane to provide for pedestrian access, bicycle parking, bin stores and all associated site works and excavation, site landscaping, services and all ancillary development.
- Connection to public water and wastewater networks.

2.2. The application was accompanied by the following documentation as well as all statutory and standard public notices and drawings etc:

- Planning Report
- Engineering and Services Report
- Architectural Heritage Impact Assessment
- Site Specific Flood Risk Assessment
- Basement Impact Assessment
- Building Damage Ground Movement Assessment
- Daylight and Sunlight and Overshadowing Impact Assessment
- Photomontage

3.0 **Planning Authority Decision**

3.1. **Further Information**

3.1.1. 8no. items of further information were sought as follows:

- Ownership of the laneway
- Detail the occupancy of nos. 19-21 Leeson Park in terms of the number of units in each overall dwelling in order to assess the impact of the loss of open space to the existing units.
- Submit a revised design reducing the height and depth of the proposed terrace to provide greater separation distances between the structure and the rear boundary and consider omitting the balconies to address concerns regarding built heritage impacts.
- Clarify floor to ceiling heights.

- Submit revised photomontages omitting structures which have not yet been constructed.
- Clarify the location and areas of private open space, including indication if these spaces are covered to address concerns regarding the quality and quantity of private open space provision for the proposed units.
- Provide 1no. car parking space per unit as the Transport Department does not support a car free development at this location.
- Demonstrate that the laneway meets requirements of section 15.13.5.4 of the CDP regarding mews laneway widths.
- Provide a Service, Delivery and Access Strategy As required under Table 15-1 of the CDP having regard for deliveries, waste collection, fire and emergency access and additional autotracking demonstrating manoeuvrability around existing parked vehicles on the laneway.
- Provide additional drainage details. Surface water must be treated prior to discharge to the public sewer. The applicant was requested to liaise with the Drainage Division on this matter.

3.1.2. The applicant's response comprised the following:

- A solicitor's letter outlining the applicant's right of way on the laneway as well as the right to inspect, cleanse, repair and renew all and any conduits laid in the laneway without any prior consent of the laneway owner. Further, it states that a Construction Management Plan for maintaining access would be submitted to and agreed with the Planning Authority prior to the commencement of development.
- The 3no. dwellings are in separate ownership to the subject site and the applicant therefore claims that their occupancy is outside the scope of the application. It suggests that substantial rear gardens would be provided ranging from 88-105m² which are '*generous rear gardens in an urban area*' and which would remain in service to each respective dwelling protecting '*the character and amenity of these protected structures and provides for more than adequate rear garden open space*'.
- A revised design omitted balconies at the east however the response suggests that a perception of over massing and over scaling is due to the masterplan approach to

develop the three sites at the same time and viewing the development as a single massed structure rather than three mews dwellings. Precedent has been set for three-storey mews dwellings on this laneway and the proposed ridge height is considerably lower than the protected structures.

- A minimum of 2.4m floor to ceiling height is proposed.
- One single revised photomontage was submitted showing the view of the site from the public arena on Leeson Park. The response suggests that permitted development was included as an aide memoire for the Planning Authority to demonstrate permitted planning history and the evolution of development in the area. It suggests that such permitted but not yet constructed structures can be ignored in the photomontages. It also states that '*Digital Dimensions are renowned for accuracy of their images and there is no need for further images*'.
- Revised plans removed proposed balconies and there are no longer proposals to provide overhangs to open space. 45-47m² open space is proposed for each of the 3-bed units.
- A Sustainable Access, Services and Deliveries Report, was submitted which '*justifies the proposed development as a car free development in the context of the development plan national policy and site accessibility to public transport.*' A Mobility Management, Servicing and Deliveries Strategy was also submitted. Autotrack drawings demonstrate that safe access and egress can be achieved.
- Revised drainage plans were submitted which include an element of green roofs, rainwater gardens, permeable paving and a surface water pumping station for overflows in each unit.

3.2. Decision

A notification to refuse permission for 4no. reasons as set out below was issued on 28th January 2026. The refusal reasons are as follows:

1. Due to its height, scale, massing and proximity to the rear of the Protected Structures, the proposed development is overly dominant, and would cause serious injury to the special architectural character and legibility of the Protected Structures and their setting as well as the wider residential conservation area, and would contravene Policies BHA2 (a), (b), (c), d), (e), (g) and BHA14 of the Dublin

City Council Development Plan 2022-2028. The proposal would create 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. Having regard to the design, mass, scale, location and configuration of the development, it is considered that the proposed development would fail to provide an adequate quality usable private open space for the occupants of the proposed dwelling and, as such, would be contrary to section 15.13.4 and 15.13.5 of the Dublin City Development Plan 2022-2028. The proposed development would, therefore, seriously injure the residential amenity of the area, would constitute overdevelopment of the site and would be contrary to the proper planning and sustainable development.
3. Having regard to the substandard nature and limited capacity of the lane to accommodate vehicular traffic including emergency and service access, and in the absence of a plan for the coordinated development of the lane, it is considered that the proposed mews development would be contrary to the aims and objectives of the Dublin City Development Plan 2022-2028, section 4.3.8 of Appendix 5, in terms of the width of the laneway and given that safe access and egress for all vehicles and pedestrians must be demonstrated. The proposed development would set an undesirable precedent for similar type development and would, therefore, be contrary to the proper planning and sustainable development of the area.
4. Having regard to the provisions of Section 4.3.8 (Mews Parking) of the Dublin City Development Plan 2022–2028, it is considered that the proposed development, of 3 no. three-bedroom car-free dwellings accessed via a substandard laneway with existing uncontrolled parking, would exacerbate existing traffic and parking pressures, resulting in congestion and potential road safety issues for pedestrians, service vehicles and other users. The proposed development would, by reason of its location and lack of on-site parking provision, set an undesirable precedent for similar mews and backland developments. The proposed development would be contrary to Section 4.3.8 of the Dublin City Development Plan

2022–2028 and would therefore be contrary to the proper planning and sustainable development of the area.

3.3. Planning Authority Reports

3.3.1. Planning Reports

- The Case Planner's recommendation to refuse permission is consistent with the decision which was issued.
- Appropriate Assessment and Environmental Impact Assessment issues were screened out.
- It welcomed the unified approach all three landowners took to developing the three sites at one time.
- Following receipt of the further information response, the report noted the applicant's response regarding the ownership and occupancy of the dwelling, and the Case Planner agreed this matter was outside the scope of the application. Matters regarding ownership of the laneway and floor to ceiling heights were considered acceptable. The revised drainage strategy was also considered acceptable.
- It considered the revised design insufficiently reduced the height, scale and massing of the proposed dwellings and therefore they would negatively impact the built heritage of the area, be overbearing and have unacceptable overlooking.
- With regard to revised photomontages omitting permitted but as yet un-constructed development, the Case Planner considered the applicant's response of submitting one view only from the public arena and stated: *'Photomontages are not solely to assess the impact of the development on the public domain and to only including the Leeson Park view is disappointing and reduces the applicants ability to argue that the proposal will not have an impact on the neighbouring units. It is disappointing that the applicants took this view in their response. It is considered, however, that a final decision can be made without this information'*.

- Regarding private open space, the Case Planner considered the response to be unacceptable as it did not specify where private open space would be covered by overhanging balconies overhead. It noted that flexibility is allowed under the Compact Settlement Guidelines but ultimately considered the provision of open space to be poor quality.
- It adopted the position of the Transport Division which noted the response but recommended a refusal of permission due to the lack of car parking on the site and the substandard, narrow nature of the laneway.
- It concludes by stating '*While there is an option to seek clarification of further information or condition certain changes to address come of the concerns raised in the above report, in this instance on balance, it is more appropriate to refuse permission in due to the concerns raised by the Transportation Division and Conservation Officer*' and '*While some residential development could be developed on this site in the future, the applicants should carefully consider all the issues raised within this application.*'

3.3.2. Other Technical Reports

- Conservation Officer: 2no. reports, one requesting further information and one recommending a refusal due to height, scale, massing and proximity of the development to the rear of the Protected Structures. It sets out support for a coherent mews development of three high-quality dwellings but that a significant reduction in scale was required including omitting the basement and third storey.
- Drainage Division: 2no. reports, one requesting further information and one recommending a grant of permission subject to standard conditions.
- Transport Division: 2no. reports, one requesting further information and one recommending a refusal due to the substandard laneway and a lack of car parking. It suggests this approach is consistent with decision making by An Coimisiún Pleanála and provides some reference numbers. It did not agree with conclusions drawn in the further information response regarding omitting car parking and considered '*there are no clear drawings or layout plans provided which demonstrate the width of the laneway serving the development, as requested*' and therefore there is insufficient information to enable an

assessment of compliance with the mews laneway width requirements set out in Section 15.13.5.4 of the CDP. It also states *‘While it is noted that the laneway is privately accessed and that parking along the laneway is outside the control of the applicant, the impact of uncontrolled parking on fire and emergency access along the laneway has not been addressed. No assessment has been provided to demonstrate that safe access and egress for emergency vehicles can be achieved in such circumstances’.*

3.4. Prescribed Bodies

The application was referred to the following:

- NPWS: No response
- An Taisce: No response
- The Heritage Council: No response
- An Comhairle Ealaíon: No response
- Fáilte Ireland: No response
- Uisce Éireann: No response

3.5. Third Party Observations

3.5.1. 8no. third party submissions were received form the following:

Debbie Rennick	Pat and Marie Shortt
Enda Bannon	Yvonne O’Meara
Caroline Donohoe	Stephen Shortt & Teresa Melendro Diaz
Emmet Stokes	Upper Leeson Street Area Resident’s Association

3.5.2. The following issues were raised:

- Visual impact due to height, form, scale and massing.
- Overdevelopment and overshadowing.
- Poor design with a lack of open space, plot ratio, parking and daylight internally.
Failure to comply with established pattern of mews dwellings on the laneway.

- Would set a precedent.
- Overlooking leading to non-compliance with zoning objective.
- Built heritage impacts.
- Traffic hazard and impacts to the laneway. The layout with large gates facilitates parking partially on the lane and partially in the site, or in-curtilage parking for a micro car.
- Construction impacts and lack of CMP.
- Concern that future development could amalgamate the mews dwellings and existing dwellings to form one larger multi-unit block for unknown uses such as IPAS or student accommodation, apartments, guesthouse or AirBnB.
- Landownership and authority to carry out works to the laneway.
- Lack of consultation.
- Inaccurate heritage impact assessment report with insufficient impact assessment provided.
- Impact to services such as water and electricity.
- Structural stability concerns related to the proposed basement.

4.0 Planning History

4.1. None on subject site.

4.2. WEB5052/25: Planning permission sought at no. 21A Leeson Park for development consisting of the demolition of existing single storey dwelling (in ruin) and the construction of a three storey, 3 bedrooled dwelling, incorporating an external terrace at second floor level, and all associated siteworks. A notification to **refuse** permission was issued on 02nd April 2026 for 3no. reasons as set out below and a first party **appeal** was lodged on 30th April 2026 subject to the reference number PL-501263-DS-26:

1. Having regard to the design, location and configuration of the proposal it is considered that the development would fail to provide an adequate quantity and quality of usable private open space for future occupants. This would, in turn, be

contrary to the provisions of Section 15.11.3 of the Dublin City Development Plan 2022 – 2028 and the Sustainable Compact Settlement Guidelines for Planning Authorities (2024) in which a minimum of 20/30 sq. m is required for the proposed development. The development would therefore set an undesirable precedent for similar type development, contravene the zoning objective of the site, the provisions of the Dublin City Development Plan 2022 – 2028, and would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the substandard nature and limited capacity of the lane to accommodate vehicular traffic, including emergency and service access, and in the absence of a plan for the co-ordinated development of the lane, it is considered that the proposed mews development would be contrary to the aims and objectives of the Dublin City Development Plan 2022-2028, section 4.3.8 of Appendix 5, in terms of the width of the laneway and given that safe access and egress for all vehicles and pedestrians must be demonstrated. The proposed development would set an undesirable precedent and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the provisions of Section 4.3.8 (Mews Parking) of the Dublin City Development Plan 2022–2028, it is considered that the proposed development, 1 no. dwelling with no in-curtilage car parking accessed via a substandard laneway with existing/proposed uncontrolled parking, would result in congestion and potential road safety issues for pedestrians, service vehicles and other users along the laneway. The proposed development would, by reason of its location and lack of on-site parking provision, set an undesirable precedent for similar mews and backland developments. The proposed development would therefore be contrary to the proper planning and sustainable development of the area and contrary to Section 4.3.8 of the Dublin City Development Plan 2022–2028.

- 4.3. 4013/24: Planning permission granted to increase height of No. 22B Leeson Park from a two storey dwelling to three storey, incorporating part terrace, zinc/aluminium roof cladding, elevational changes and associated siteworks.

- 4.4. 5361/22: Planning permission granted to change the use of the garden level front reception room, an inner hall and entrance lobby from office to residential use, so that the entire building forms a single family dwelling at No. 17 Leeson Park.
- 4.5. 5280/22: Planning permission sought for the construction of a 166 sqm two-storey detached building containing a "granny-flat", at first floor level and a car garage/garden store/ entrance hall/w.c. at ground floor level, to the rear of, and ancillary to, her home at No. 16 Leeson Park, Dublin 6, (a Protected Structure), and accessed via the back garden and a private, unnamed, lane to the rear (west) of her property. The Local Authority issued a notification to **refuse** permission however following a first party **appeal** under reference ABP-315861-23 planning permission was **granted**. Conditions attached limited the use of the building as ancillary family accommodation associated with the main dwelling.
- 4.6. 2185/20: Planning permission sought for alterations, extensions, refurbishments & demolitions to the existing single storey dwelling house structure including: 1) Construction of new split-level part two-storey and part single storey dwelling house arrangement including a new semi-basement floor level, ground floor level and upper ground floor level upward extension; 2) Construction of new external terrace at upper ground floor level; 3) Construction of new roof structures; 4) Revisions to elevations / external dwelling perimeter wall; 5) Construction of new bicycle and bin store area; 6) All ancillary site works, boundary treatments and services at No. 21A Leeson Park. The Local Authority issued a notification to **refuse** permission however following a first party **appeal** under reference ABP-307160-20 planning permission was **granted**.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028 (referred to hereafter as the CDP). The site is zoned Z2 Residential Neighbourhoods (Conservation Areas) which has the following objective:

“To protect and/or improve the amenities of residential conservation areas.”

- 5.1.2. The objective goes on to state:

'Residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. A Zone Z2 area may also be open space located within or surrounded by an Architectural Conservation Area and/or a group of protected structures. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area. Chapters 11: Built Heritage and Archaeology, and Chapter 15: Development Standards, detail the policies and objectives for residential conservation areas and standards, respectively. Volume 4 of this plan contains the Record of Protected Structures. The principal land-use encouraged in residential conservation areas is housing but can include a limited range of other uses. In considering other uses, 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. Chapter 11 refers to Built Heritage and Archaeology and section 11.5.3 expands on the conservation aspect of the Z2 zoning. It states:

'Whilst these areas do not have a statutory basis in the same manner as protected structures or ACAs, they are recognised as areas that have conservation merit and importance and warrant protection through zoning and policy application.

.....

all of these areas require special care in terms of development proposals. The City Council will encourage development which enhances the setting and character of Conservation Areas.'

5.1.4. As noted previously, each of the dwellings east of the site facing Leeson Park are on the Dublin City Record of Protected Structures and therefore policy BHA2 applies as set out below. Please note there is an error in the numbering of the sub-headings which arises from the adopted CDP text.

- BHA2 It is the Policy of Dublin City Council that development will conserve and enhance protected structures and their curtilage and will:

- (a) *Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities (2011) published by the Department of Culture, Heritage and the Gaeltacht.*
- (b) Protect structures included on the RPS from any works that would negatively impact their special character and appearance.
- (c) Ensure that works are carried out in line with best conservation practice as advised by a suitably qualified person with expertise in architectural conservation.
- (d) 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.
- (c) *Ensure that the form and structural integrity of the protected structure is retained in any redevelopment and ensure that new development does not adversely impact the curtilage or the special character of the protected structure.*
- (d) *Respect the historic fabric and the special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials.*
- (e) *Ensure that new and adapted uses are compatible with the architectural character and special interest(s) of the protected structure.*
- (f) *Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features.*
- (g) *Ensure historic landscapes, gardens and trees (in good condition) associated with protected structures are protected from inappropriate development.*
- (h) *Have regard to ecological considerations for example, protection of species such as bats.*

5.1.5. Policy BHA 14 relates specifically to mews developments as follows:

‘To promote the redevelopment and regeneration of mews lanes, including those in the north and south Georgian core, for sensitively designed, appropriately scaled, infill residential development, that restores historic fabric where possible, and that removes inappropriate backland car parking areas.’

- 5.1.6. The site is situated in the Inner Suburbs as per the description of the city as set out in Chapter 4. Policy SC8 refers to development of the inner suburbs and seeks to: *support the development of the inner suburbs and outer city in accordance with the strategic development areas and corridors set out under the Dublin Metropolitan Area Strategic Plan and fully maximise opportunities for intensification of infill, brownfield and underutilised land where it aligns with existing and pipeline public transport services and enhanced walking and cycling infrastructure.*
- 5.1.7. I also note policies SC10 regarding urban density and SC11 regarding compact growth. Similarly Policy QSHN6 refers to Urban Consolidation and Policy QSHN10 promotes higher residential densities. Objective QHSNO4 seeks to support the ongoing densification of the suburbs.
- 5.1.8. Chapter 15 sets out development management standards for a range of topics including open space, car parking, aspect and separation distances. Section 15.13.4 refers to backland housing while 15.13.5 refers to mews developments and provides specific guidance on design and access. It states *‘Car free mews developments may be permitted in certain circumstances where there are specific site constraints and where alternative modes of transport are available. Each development will be assessed on a case by case basis.’*
- 5.1.9. Appendix 5 of the CDP refers to ‘Transport and Mobility: Technical Requirements’ and section 4.3.8 refer to parking in mews developments. It states the same text regarding a case by case basis as set out above.

5.2. **Relevant National or Regional Policy / Ministerial Guidelines**

- 5.2.1. **Section 28 Guidelines: Sustainable Residential Development and Compact Settlement Guidelines, 2024.** The guidelines, hereafter referred to as the Compact Settlement Guidelines, set out a context to create higher density settlements to underpin sustainable development principles. Specific Planning Policy Requirements (SPPRs) are set out including SPPR 1 which refers to minimum standards for separation distances between residential units and opposing windows in habitable

rooms, SPPR 2 regarding private open space for houses, SPPR 3 provides for car parking rates while SPPR 4 provides for cycle parking and storage.

5.3. **Natural Heritage Designations**

- 5.3.1. The site is situated 2.7km west of South Dublin Bay and River Tolka Estuary Special Protection Area (SPA), South Dublin Bay Special Area of Conservation (SAC) and South Dublin Bay proposed Natural Heritage Area (pNHA).

6.0 **EIA Screening**

- 6.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

7.2. **One first party appeal was received which raised the following grounds of appeal against the decision to refuse permission:**

- 7.2.1. Revised proposals were submitted with the appeal which reduced the height and scale of the development 'to a modest two storey mews style development'.
- 7.2.2. The decision is unsustainable and fails to have due regard to the statutory Compact Settlement Guidelines and particularly SPPRs 1, 2 and 3 which provide flexibility in terms of open space, separation distances and car free developments.
- 7.2.3. The decision fails to have regard to national policy addressing the housing crisis and the Local Authority's own delivery of its housing strategy. There was no land use evaluation undertaken in the context of delivering housing. The development complies with the zoning objective as well as the use and character of the area and provides increased density at an infill location. This optimises serviced urban land

resulting in significant environmental improvements and urban regeneration of a backland site.

- 7.2.4. The Planning Authority failed to have regard to climate change and compact growth objectives in national policy. The sustainability of permitting a car free development was not evaluated in terms of Section 15(1)g of the Climate Action and Low Carbon Act 2015 (As amended). The proposed car free development has a climate benefit and encourages a modal shift to public and active transport as supported by CDP policies, the Climate Action Plan and SPPR 3 of the Compact Settlement Guidelines. It also supports the 15min city concept by providing family homes within walking distance of all necessary amenities.
- 7.2.5. The Transport Department reports are incoherent and motivated by the core policy objection to lack of car parking. There are no grounds for a refusal of permission due to a lack of parking as the site is in an ideal urban location within walking distance of the city centre and adjacent to public transport. The development therefore sets a precedent for climate resilient housing complying with policy QHSN5 regarding sustainable infill, backland, mews and reuse of existing housing stock.
- 7.2.6. The Planning Report's characterisation of the development as 4 stories in height fails to recognise mitigation by means of providing accommodation in the basement and attic levels which do not contribute to the resultant massing and form and do not impact on the surrounding protected structures. It also failed to carry out its own assessment of residential amenity, overdevelopment against the Compact Settlement Guidelines or CDP compact settlement vision. It relied unduly on the Conservation Officer's negative report.
- 7.2.7. The revised proposal omits the proposed attic accommodation, provides a difference in ridgelines of 8.26m between the existing and proposed structures and provides a green roof to aid biodiversity and support climate resilience. Separation distances of 18m are achieved and the scale is similar to nearby permitted mews proposals. The revised plans entirely address reasons for refusal nos. 1 and 2 and have a negligible impact on the legibility and setting of the protected structures.
- 7.2.8. The revised photomontage demonstrates that the dwellings would not be visible from the wider conservation area. Existing and proposed landscaping would screen the development from nos. 19-21 Leeson Park.

- 7.2.9. The development complies with every subheading of Policy BHA 2. Adequate separation distances, ridge heights and landscaping are proposed. No works are proposed to the protected structures themselves. An Impact Assessment was undertaken which concludes that the rear elevations of nos. 19-21 are less architecturally significant as their respective fronts, that sizeable rear gardens would remain to serve each dwelling and that the works to the stone boundary walls would be mitigated by reuse of the original granite rubble stones to build the new boundary walls.
- 7.2.10. The Conservation Officer's report supports a coherent news development but did not analyse ridge heights and it is considered that their concerns could have been addressed by way of a condition to omit the attic level. The basement has no impact on height, massing or scale and cannot infer an overbearing impact. The modified plans address the Conservation Officer's concerns.
- 7.2.11. The modified proposal provides private open spaces ranging from 59m² to 67.5m² which significantly exceeds the required standard in both the CDP and Compact Settlement Guidelines. The CDP standard predates the Guidelines which therefore take precedence.
- 7.2.12. Rear garden depths range from 14.3-16.7m in order to retain the majority of the garden with the protected structures. This allows for a lesser depth to be proposed with the new dwelling, according with compact growth policies consolidating urban areas while providing adequate open space and set backs from the protected structures.
- 7.2.13. Sections 5.13.4 and 5.13.5 of the CDP do not specify private open space standards. Section 15.11.3 suggests 10m² per bedspace is normally applied and generally 60-70m² is sufficient for houses in the city. The plan also provides flexibility on a case by case basis.
- 7.2.14. The Compact Settlement Guidelines provide more flexibility and promote own door dwellings. SPPR 2 requires a 3-bed dwelling to have 40m² of private open space which may be combined in different spaces and therefore the proposal significantly exceeds this. The omission of upper floor balconies in the FI design omits overlooking and residential amenity is protected with no overlooking or overbearing

issues arising. Overdevelopment matters are addressed by way of omitting the attic level accommodation.

- 7.2.15. With regard to the laneway, the appeal contends that Section 4.3.8 of the CDP regarding laneway width has been misapplied as a performance standard. It suggests that Section 4.3.8 outlines a minimum carriageway width and in circumstances where this cannot be achieved, safe access and egress must be demonstrated. The applicant acknowledges that the laneway is substandard however documents were submitted with the further information response to address this including the access and servicing report, refuse collection strategy, emergency vehicle tracking and servicing frequency analysis.
- 7.2.16. A refusal under Section 4.3.8 must demonstrate that safe access is unachievable which has not been demonstrated. The Transport Department report states '*Servicing, deliveries, refuse collection and emergency vehicle access may be facilitated without obstruction...*' which is significant and demonstrates the development can operate safely.
- 7.2.17. Refusal reason no. 3 characterises the proposal as failing to demonstrate safe access however the transport report does not specify this, rather it raises concerns regarding the robustness and extent of drawings and the impact of third party parking which is outside the control of the applicant. This is not an impact of the development itself. Section 4.3.8 of the CDP does not require elimination of all hypothetical third party obstruction. Any existing access issues on the laneway are unrelated to the modest scale of the proposed development.
- 7.2.18. Furthermore, all existing users have a legally enforceable right of way which can be activated and enforced by the applicant if required. There is no evidence before the planning authority that third party parking is an issue at present or in the future.
- 7.2.19. Regarding refusal reason no. 4 and the lack of parking spaces, the appeal suggests that the Transport Department's core objection is not traffic generation but rather the absence of on-site parking. The refusal reason does not state that the proposal fails to meet a mandatory parking requirement but reframes it materially as congestion and traffic pressure.
- 7.2.20. In the absence of qualified trip data, it is unclear how a car-free development of three units could materially exacerbate traffic pressures and this assertion is not quantified

by any analysis. This represents speculative behavioural assumptions and not a sound planning decision as Section 4.3.8 specifically states car free mews developments may be permitted in circumstances where more sustainable modes of transport are available. The application documents demonstrated significant availability of public transport options at the site complying with the Local Authority's modal split ambitions. The development is exactly the type required to achieve this modal split and is fully coherent with transport and mobility aims of the CDP. The parking reason avoids stating non-compliance with a mandatory parking requirement and relies on unsubstantiated congestion and safety concerns. It is unsustainable and does not comply with Section 15(1) of the Climate Act and Climate Action Plan and also fails to comply with the Compact Settlement Guidelines.

7.2.21. The transport report does not conclude that safe access cannot be achieved. It acknowledges a level of operational feasibility and is thus not consistent with refusal on the basis of unsafe access. Reason no. 4 is internally incoherent as the development does not generate resident vehicular traffic.

7.3. **One third party appeal was received from Yvonne O'Meara which endorses the given refusal reasons but also considered insufficient emphasis was placed on built heritage impacts. It raised the following grounds of appeal:**

7.3.1. Drawing no. PL-002 illustrates a greater proportion of boundary wall to be removed than retained. This is not only regrettable, given the importance of such features in defining the original curtilage of these historic houses, but also unlawful given section 57(10) of the Planning and Development Act 2000 (as amended) which states that '*A planning authority, or the Board on appeal, shall not grant permission for the demolition of a protected structure or proposed protected structure, save in exceptional circumstances*'.

7.3.2. The appeal requests An Coimisiún to endorse the Planning Authority's decision but to include a further reason for refusal which places weight on the importance of these historical walls and which opposes their demolition.

7.4. **Planning Authority Response**

- Request to uphold the decision and in the event of a grant of permission, that the following conditions are applied:

- Section 48 development contributions,
- Payment of a bond (for unspecified requirements), and
- Naming and numbering

7.5. Observations

7.5.1. 1 no. observation was received from Emmet Stokes which raised the following issues:

- The first party appeal does not actually contest the decision but instead submitted a modified proposal which does not constitute a valid appeal as it is materially different to the scheme originally seeking permission. The observation highlights that the refusal reason relates to the original design and not the revised proposal which still does not comply with policy BHA2. Removing one floor is insufficient to address concerns regarding height, scale massing and proximity to protected structures.
- The applicant's reliance on meeting separation distances set out in the Compact Settlement Guidelines is irrelevant in terms of built heritage impacts.
- The site has been artificially separated from the original protected structure plot by different owners however the overall property is owned and controlled by the same landowner. The blue line on site location drawings should therefore be provided to illustrate all adjacent land in the same ownership and to demonstrate the feasibility of proposed landscaping on the adjacent sites.
- The applicant claims historic boundaries will be protected however the contiguous elevation drawing Z-Z illustrates a new replacement with bi-fold entrance gates which appear to be intended as vehicular access points.
- Proposed private open space is fragmented, poorly distributed and would detract from residential amenity of future occupants.
- Overlooking would occur to existing Leeson Park dwellings. There would also be poor separation distances of 4-4.2m between the proposed master bedroom windows and adjacent private open spaces. This does not comply with SPPR 1 of the Compact Settlement Guidelines and would not protect the amenity and privacy of adjoining property. Further, as the applicants claim the adjoining property is outside of their ownership, proposed planting cannot be implemented.

- The excessive development has not been subject to a daylight and sunlight assessment which is a fundamental omission having regard to the design of the dwellings, their open space and fenestration.
- No part of the laneway should be included in the site as the necessary consent has not been obtained. It is 50% owned by the observer and another unrelated party. A solicitor's letter is provided contradicting the applicant's claim of a right to undertake works on the laneway. The observer requests an Coimisiún to consider the validity of the application when the applicant has insufficient legal interest to carry out the proposed development.

7.6. Further Responses

7.6.1. The third party responded to the first party appeal as follows:

- The applicant submitted modified proposals and therefore accepts a degree of the decision made and does not directly challenge it. The third party questions the appropriateness and lawfulness of An Coimisiún assessing a proposal which has not been subject to public consultation and which falls outside the range of minor revisions. The applicant admits 'a substantive difference' was made in ridge levels by omitting the attic level accommodation.
- The key issue is the suitability of the development for the site and this is not an appeal which should turn on provisions of a more strategic nature such as climate resilience, national planning policy and ministerial guidelines. The applicant has misinterpreted the 'Coolglass' judgement to suggest that proposals which comply with the Climate Act should be permitted. The third party suggests the Climate Act must be considered but does not compel An Coimisiún to grant permission which otherwise are substandard.
- Case law is set out suggesting that the Compact Settlement Guidelines do not take primacy over the CDP as the applicant contended in the first party appeal.
- Separation distances are not specified on drawing no. PL_AP_101. Compliance with an SPPR does not prevail over heritage concerns. Policy BHA 2 requires developments to enhance protected structures however the appeal simply sets out how it would not adversely affect the protected structures. No point of the appeal assessed the demolition of historic walls, reshaping curtilage of the protected

structures and how the construction of houses would enhance the protected structures.

- No landscaping exists to provide screening to the new dwellings on adjoining property. The applicant's suggestion that the impact to protected structures would be acceptable due to the presence of screening infers that the absence of screening means the development would be unacceptable. The third party's garage structure on the adjacent no. 18 Leeson Park provides no screening of their garden as suggested in the appeal. The dwellings would be visually intrusive when viewed from No. 18 and would also overlook that property.
- The socioeconomic profile of the proposed units in an upmarket area suggests cars would be owned despite public transport options. Reduced car parking rates are generally provided in higher density schemes occupied by younger residents with limited ability to afford a mortgage and a car. The characteristics of the area support both car ownership and transport by more sustainable modes and the third party appellant supports the Transport Department's position which does not support a car-free development in this location. The presence of existing laneway parking supports this and also negates the applicant's suggestion that the new dwellings do not require off-street parking.
- The third party does not accept that the development would be car-free and considers it a virtual certainty that future residents and their guests will park on the laneway. The physical alignment and characteristics of the laneway and particularly the single carriageway nature of it adjacent to the site have not been properly considered by the applicant. The applicant's theoretical assessment does not consider the possibility that the lane may be used by future occupants forcing traffic attempting to enter the laneway to reverse. The third party appellant also questions the veracity of the applicant's statements regarding accessibility for deliveries and emergency access.

7.6.2. The first party responded to the third party appeal with the following points:

- For an appellant to submit a valid appeal against a Planning Authority's decision they must raise a new refusal reason. The appellant has failed to do this and is reliant on heritage impacts which were already included in reason no. 1. Built

heritage impacts including to the boundary walls and setting of the protected structure are addressed in the first party appeal.

- The third party considers works to the boundary wall comprise demolition however the applicant disagrees and suggests the works fall within the scope of removal, repair and reinstatement as the works comprise minor works and reinstating the same stone in new boundaries.
- The third party has misinterpreted Section 57(10) of the Planning and Development Act 2000, as amended, and demolition of the entire walls are not proposed in this case. Partial removal, repair and reinstatement is proposed. A conservation based approach has been put forward in accordance with the Architectural heritage Protection Guidelines for Planning Authorities (the Guidelines). Method statements were also submitted and works will be supervised by a Conservation Architect.
- Works to the walls do not fall into the category of demolition of a protected structure permissible only in exceptional circumstances. There are numerous precedents for similar works to boundary walls along the laneway and photographs are submitted to demonstrate same including at the third party's property where the entire rear boundary wall was removed and a shed inserted with an opening facing the laneway while the pedestrian entrance was also removed and replaced. These works may not have been subject to supervision by a Conservation Architect, do not appear to have the benefit of planning permission or have been undertaken in accordance with the Guidelines.
- The third party appeal is invalid, groundless and seeks to apply different standards not envisaged by the act or guidelines and not implemented or adopted by the third party themselves. The applicant requests that the third party appeal is dismissed as vexatious.
- SPPRs in the Compact Settlement Guidelines are not discretionary and flexibility therein is to increase housing supply.
- The response goes on to repeat some of the points summarised earlier in the grounds of appeal regarding housing targets, climate policy, how the design revisions address built heritage concerns, parking and access issues.

8.0 **Assessment**

8.1. Introduction

- 8.1.1. The site is zoned Z2 which seeks to protect and/or improve the amenities of residential conservation areas and where housing is the principle land use encouraged. The site is also already in residential use and in this regard I consider the principle of development is acceptable as a change of use will not occur.
- 8.1.2. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s 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:
- Built Heritage
 - Private Open Space
 - Laneway Accessibility
 - Car Parking
 - Other Matters
- 8.1.3. For the purposes of this report and assessing the quality of open space in each unit I have identified each of the 3no. units by adding an 'a' to the respective no. 19, 20 and 21 attributed to the protected structure directly adjoining each proposed dwelling. In this regard, the southernmost proposed unit is hereafter referred to as no. 19a, the middle unit as 20a and the northern unit at the corner of the laneway as 21a.

8.2. **Built Heritage**

- 8.2.1. Permission was refused due to the height, scale, massing and proximity of the proposed three storey over basement dwellings to the rear of the Protected Structures. The Planning Authority considered the proposed development to be overly dominant causing serious injury to the special architectural character and legibility of the Protected Structures, their setting and the wider residential conservation area. This section of the report will assess the merit of that decision in so far as it related to the design submitted to the Planning Authority at that further

information stage (FI design) and will then assess the impacts of the modified proposal submitted with the appeal (revised plans) on the area's built heritage.

- 8.2.2. The FI design comprised a three storey over basement structure which reached 8.3m in height and had separation distances of 11-12m to single storey returns/extensions on the protected structures and increasing to 17-18m to the main rear elevation of the protected structures.
- 8.2.3. The design provided for a stepped back rear elevation which reduced the overall mass of the proposed dwellings. The protected structures would have been c.7m taller than the proposed dwellings and in my opinion would have retained primacy and dominance over the proposed dwellings. Very little, if any, of the proposed development would be visible from the public arena on Leeson Park and no works were actually proposed to the protected structures themselves. Views of their rear elevations would have been partially obscured from singular views only, directly from the rear, however even at that location the extent of special architectural character of the overall protected structure which is present on the rear elevation would have been clearly distinct and legible.
- 8.2.4. I consider there was a higher likelihood of impacts to the overall setting of the conservation area than to the protected structures themselves due to the pattern of infill development and the reduction of open space alongside the laneway. When regard is had however to existing mews and domestic shed developments along the laneway as well as the general backland nature of the site, together with the footprint of the proposed dwellings and their scale and height, I do not agree with reason for refusal no. 1.
- 8.2.5. Moving to the modified design which has notably reduced the scale, I consider the revised proposal is more appropriate to the location and is a better designed structure. It removes the previous pitched roof third floor and now proposes a two storey over basement flat roof structure reaching a total height of 6.4m and would be finished with a green roof. I consider the resulting mass and bulk of the proposed terrace would not impact on the setting or character of the protected structure or on the conservation area.
- 8.2.6. The contemporary design finished with a range of brick, timber cladding, metal cladding and vertical fins would represent an acceptable intervention in this backland

site which would not detract from the built heritage of the area. The layout acknowledges the original historic plots by maintaining each dwelling's width within the width of each plot.

- 8.2.7. I note the third party appeal raises concerns regarding impacts to the boundary walls and specifically that planning permission should not be granted for their demolition. I agree with the applicant's response that the proposed works do not seek to demolish the walls entirely and I consider the degree of intervention proposed is acceptable. In my view the proposed works to boundary walls would still retain the pattern of the historic plot and would also reach a balance between maximising land use efficiency and protecting built heritage.
- 8.2.8. The third party also raises the point that additional landscaping and screening is proposed in the rear gardens of the original dwellings, but the applicant claims this property is outside of their ownership. Therefore, it is unclear how the landscaping would be implemented as it would not be enforceable or reasonable to condition its undertaking. I agree with the third party that landscaping on adjacent land outside the applicant's control should not be considered implementable and any mitigative screening it may provide should be dismissed. My earlier assessment on impacts to built heritage was based on a bare earth scenario and did not take account of any proposed screening or landscaping.
- 8.2.9. To conclude, I consider the proposed development would comply with the requirements of policies BHA 2 and BHA 14 of the Dublin City Development Plan 2022-2028 and I disagree with the reason for refusal no. 1 as issued in the notification of decision by that Planning Authority. I do not agree that the proposal would create an undesirable precedent for similar type development or would devalue property in the vicinity due to its modest scale and contemporary design which respects the character of the nearby protected structures.

8.3. **Private Open Space**

- 8.3.1. The planning authority's decision considered the design and layout of the then proposed units failed to provide an adequate quality usable private open space for the occupants of the proposed dwelling and, as such, would be contrary to sections 15.13.4 and 15.13.5 of the CDP.

- 8.3.2. SPPR 2 of the Compact Settlement Guidelines requires a minimum of 40m² private open space for 3-bed units and it provides a case-by-case flexibility for infill schemes *'subject to overall design quality and proximity to public open space'*. It also states *'Private open space must form part of the curtilage of the house and be designed to provide a high standard of external amenity space in one or more usable areas. Open spaces may take the form of traditional gardens or patio areas at ground level, and / or well designed and integrated terraces and/or balconies at upper level. The open space must be directly accessible from the unit it serves and a principal area of open space should be directly accessible from a living space.'*
- 8.3.3. Section 15.11.3 of the CDP refers to private open space for residential developments and states the following:
- 'Private open space for houses is usually provided by way of private gardens to the rear of a house. 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. ...*
- These standards may be relaxed on a case by case basis subject to a qualitative analysis of the development.'*
- 8.3.4. Section 15.13.4 of the CDP refers to backland developments and requires *'compliance with relevant residential design standards in relation to unit size, room size, private open space'* but also allows flexibility by stating *'In certain instances, Dublin City Council may permit relaxation of some standards to promote densification and urban consolidation in specific areas.'* Section 15.13.5.1 refers specifically to mews developments and states *'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. The open space area shall not be obstructed by off-street parking.'*
- 8.3.5. I note that Ranelagh Gardens and Dartmouth Square are public open spaces both situated within 500m walking distance of the site.
- 8.3.6. The dwellings are advertised as 3-bed units and each has the floorspace of a double bedspace, thereby requiring 60m² private open space under the CDP requirements. I

note however that in each case, the lower ground floor has an additional room in both the FI design and the revised plans which meets the floorspace requirements for a double bedroom. Each has a window or door to private open space and there is also a shared bathroom on each of the lower ground floors. These rooms are referred to as a playroom/bar on the FI design and as offices in the revised plans. For clarity, the FI design proposed that the larger first floor room on the front elevation was an office and the third bedroom was positioned on the second floor. The revised plan has omitted the second floor and therefore that first floor room at the front was changed to become a bedroom and the aforementioned playroom/bar on the lower ground floor is now proposed to be an office.

- 8.3.7. I am raising this in order to highlight the size of those rooms which could easily comprise bedrooms and would be difficult to regulate in terms of future occupancy. In this context, I consider it is misleading to describe the dwellings as 3-bed units and consider it more appropriate to assess them as 4-beds. The Compact Settlement Guidelines require 50m² of private open space for 4-bed dwellings while the CDP would require 80m² but I note the provision which states '*Generally, up to 60-70 sq. m. of rear garden area is considered sufficient for houses in the city*'.
- 8.3.8. The open space strategy in both the FI design and the revised plan is largely similar with open space provided in the same locations of each dwelling, but with minor revisions made in terms of the quantum of each element. The appeal states *these revised modified plans address entirely the concerns of the planning authority set out in reasons 1 and 2*'. The FI design provided open space in the range of 45-47m² while the appeal design provides 59.6m² to 67.5m² and the appeal outlines how this significantly exceeds the required standard in both the CDP and Compact Settlement Guidelines. I consider only the revised plan would meet the minimum required quantum.
- 8.3.9. The appeal does not address the quality of those spaces and the overall amenity levels they provide beyond acknowledging that the Guidelines allow for a fragmented layout. I do not dispute this matter and I agree with the applicant that well designed compact settlements with a distributed pattern of open space in lieu of traditional singular blocks to the rear of dwellings represent a more efficient land use. This responds to national policy for compact growth, particularly on zoned, serviced and

accessible land such as the subject site. In this context I also agree with the applicant's position regarding sustainability and climate policy.

- 8.3.10. Open space is proposed across a range of locations comprising a terrace at lower ground floor, a terrace and patio at ground floor and a balcony at first floor. The Planning Authority focussed on the quality of open space in terms of the quantum of each location which would be covered by another space overhead as the ground floor terrace would cover approximately half to two thirds of the lower ground floor terrace at the east, while the first floor balcony at the west would overhang onto the ground floor patio.
- 8.3.11. In order to determine the quality and usability of the open space, it is necessary to identify the primary and secondary open spaces of each unit and where they are accessible from as the Guidelines require that '*a principal area of open space should be directly accessible from a living space*'.
- 8.3.12. The first-floor balcony on each iteration of the design is accessed from a walk-in wardrobe, bedroom and/or an office and is therefore not a primary amenity space. Similarly, the lower ground floor terrace would be accessible from a playroom/bar/office and bedroom and therefore also does not comprise primary amenity space. Further, a large proportion of that subterranean lower level terrace would be covered by the ground floor terrace overhead as mentioned already and therefore does not comprise a high quality amenity area.
- 8.3.13. The remaining ground floor amenity spaces are discussed in two groups due to the layout of the dwellings. In the case of nos. 19a and 20a a small patio is proposed at the east accessed from the kitchen and a larger patio at the west accessed from the living room. The FI stage terraces proposed 7m² of space while the revised plans propose 7.3 and 8.5m² which do not, in my view, represent an adequate area of prime open space for a 4-bed dwelling. A larger western patio would be situated on the front elevation of these two units, ranging 22-23m² at FI stage and 23-26m² for the revised plan. It would be accessed from the living room and therefore potentially represents the highest quality area of open space for those dwellings. This patio would have a depth of 3-4m however the first-floor balcony would overhang 1.5m of this.

- 8.3.14. Furthermore, the property boundary between these patios and the laneway would comprise a bi-fold gate formed of fins in an unspecified material. This transparency provides a high degree of passive surveillance to the laneway which is a welcome feature but results in little to no privacy for amenity purposes on a space which should be the prime amenity area for the family dwelling.
- 8.3.15. Lastly, I note that integrated bin storage is proposed to be accessed from this patio. No specific bike storage area is illustrated on the drawings despite being referred to in the development description. Section 5.1 of the Sustainable Access, Servicing and Deliveries Report states '*Each dwelling will provide two secure, covered cycle-parking spaces, exceeding Development Plan standards.*' In my view this is also likely to be positioned on the western patio.
- 8.3.16. In the case of no. 21a, the northernmost unit situated at the corner of the laneway, its front door and integrated bin spaces are all situated at the north accessed from a patio which overhangs approximately two thirds of the lower ground floor terrace. This patio is only accessible from the front door and therefore does not represent private amenity space in my opinion. It has a patio at the west which would be enclosed by the existing 1.5-1.8m high boundary wall to be retained in situ. This patio however would have a depth of 2-2.8m and therefore would be severely compromised by the balcony and first floor overhang above which has a depth of 1.5m.
- 8.3.17. To conclude, I agree with the principle of refusal reason no. 2 and I consider the layout and design of the proposed units would not represent adequate amenity value for future residents. On balance, when regard is had to the infill nature of the site and sustainability of increasing residential density on zoned lands, close to public transport and all of the climate benefits associated with same, I consider the size of the site allows sufficient opportunity to redesign the layout and provide a higher quality private open space for future occupants.
- 8.3.18. Refusal reason no. 2 refers to non-compliance with sections 15.13.4 and 15.13.5 of the CDP. It does not refer to SPPR2 of the Compact Settlement Guidelines which requires proposals for new houses to provide a '*high standard of external amenity space in one or more usable areas*'. Section 15.13.4 of the CDP requires proposals to comply with residential standards, which the layout does do in terms of quantum of

open space. It goes on to states however that a relaxation in garden length may be acceptable once sufficient open space is provided and, in this case, the proposed development does not meet this requirement. I therefore consider the proposal would contravene Section 15.13.4.

8.3.19. Section 15.13.5 states '*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*'. This is not the case in the layouts submitted and therefore I consider the development does contravene Section 15.13.5.

8.4. Laneway Accessibility

8.4.1. Reason for refusal no. 3 referred to the substandard nature and limited capacity of the lane to accommodate vehicular traffic including emergency and service access and non-compliance with section 4.3.8 of appendix 5 of the CPD as well as an absence of a plan for the coordinated development of the lane.

8.4.2. Section 15.13.5.4 of the CDP requires compliance with Section 4.3.8. The former states '*Where access cannot be provided, an access and movement strategy must be provided to justify that the development can be adequately served*' while the latter states '*Potential mews laneways must provide adequate accessibility in terms of private vehicular movements, emergency vehicles and refuse vehicles. A minimum carriageway of 4.8m in width (5.5m where no verges or footpaths are provided) is required. In circumstances where these widths cannot be provided, safe access and egress for all vehicles and pedestrians must be demonstrated.*'

8.4.3. The appeal notes that the laneway does not meet the required width but suggests that it is still fully accessible. An autotrack drawing was submitted with the further information response showing the northern 'east west' section to be accessible however no drawing was received of the southern 'north-south' section despite being referred to in the applicant's reports. The transport department report noted this and states '*The report demonstrates that servicing, deliveries, refuse collection and emergency vehicle access may be facilitated without obstruction to the laneway or Leeson Park and these elements are noted.*' However, it later goes on to outline concerns regarding the impact of existing uncontrolled third party parking along the laneway and how this affects emergency access. It considers the applicant has not

addressed this matter as there are no clear drawings or layout plans provided which demonstrate the width of the laneway serving the development, as requested.

- 8.4.4. The laneway is private and gated. The applicants have a right of way over it but do not own it and therefore are not in a position to control ongoing third party parking.
- 8.4.5. The first-party appeal includes a report prepared by Martin Rogers Consulting Ltd addressing the transport related matters. It reiterates that a tender can fully access the lane and therefore meets the performance criteria required in section 4.3.8 by providing safe access and egress and goes on to state: *'Section 4.3.8 requires demonstration of safe access and egress. It does not require elimination of all hypothetical third-party obstruction. If the Planning Authority considers that the laneway currently experiences management issues, that is an existing condition unrelated to the modest scale of the proposed development.'*
- 8.4.6. While I agree with this statement to an extent, the core issue relates to safe access to the proposed development. The insertion of 3no. 3-4 bed dwellings results in an intensification of persons occupying the lane, thereby resulting in a higher likelihood or risk of requiring emergency access. The documents submitted with the application and appeal do not demonstrate how emergency access is achievable when third party cars are parked on the lane. I note the appeal states *'There is no evidence before the planning authority demonstrating that this is a problem at present or will be in the future'* however it is evident from the site inspection, the photomontages and aerial photography that there is a longstanding tradition or arrangement whereby third parties park private vehicles on the lane which clearly blocks emergency access in my opinion.
- 8.4.7. The proposed car-free development would not, in my view, further impinge or block access however in light of the existing pattern of car parking I consider the applicant has not demonstrated that safe access to the development is achievable. In this context I agree with the Planning Authority's reason for refusal where it refers to the absence of a plan for coordinated development of the laneway and I recommend that planning permission should be refused for the same reason. A coordinated approach such as providing double yellow lines and signage prohibiting car parking could go some way to managing full emergency access to any future developments along the lane. Such a proposal is nonetheless outside the reach of this planning application as

the applicant is not the landowner of the lane and cannot be conditioned or considered enforceable due to the lack of landowner consent in this regard. In the absence of such a plan the proposed development does not demonstrate how safe access to the proposed development can be achieved and therefore does not comply with Sections 15.13.5.4 and Section 4.3.8 of Appendix 5 of the CDP.

8.4.8. I note the transport department report also set out concerns regarding servicing of the development. Bin storage on the laneway is unlikely to occur in my view having regard to proposed bin stores within the building's envelope and accessed from ground floor terraces adjacent the front door of each unit. I consider the applicant's position regarding the small scale of the development and the availability of public parking spaces on Leeson Park is acceptable for servicing the development and is not likely to result in any congestion or traffic hazard.

8.5. Car Parking

8.5.1. Refusal reason no. 4 considered the development would 'exacerbate existing traffic and parking pressures, resulting in congestion and potential road safety issues for pedestrians, service vehicles and other users' and set an undesirable precedent. The transport department report states '*The continued reliance on a wholly car-free approach is therefore contrary to the position of this Division, having regard to the size and family-type nature of the proposed dwellings.*' It also noted the applicant's servicing strategy and details such as the timing and frequency of deliveries and waste collection etc but stated '*no vehicle tracking, swept-path analysis or drawings have been provided to demonstrate how these deliveries will be accommodated in practice without obstructing the laneway or Leeson Park, particularly having regard to the private and gated nature of the laneway.*'

8.5.2. Both section 15.13.5.4 and section 4.3.8 of appendix 5 of the CDP state that car free mews developments may be *permitted in certain circumstances where there are specific site constraints and where alternative modes of transport are available. Each development will be assessed on a case by case basis.*

8.5.3. The Compact Settlement Guidelines state: '*Car parking ratios should be reduced at all urban locations, and should be minimised, substantially reduced or wholly eliminated at locations that have good access to urban services and to public transport. In areas where car parking is reduced local authorities should be satisfied*

that the mobility needs of residents and workers can be satisfied (e.g. through shared mobility solutions such as car and bike share).' SPPR 3 further emphasises this and provides for car free developments with a maximum rate of 1 space per dwelling.

8.5.4. The site is situated in a highly accessible location as set out previously in close proximity to public transport. I agree with the applicant's position that the location of the site supports the absence of car parking spaces as the site is highly accessible and as demonstrated previously, I do not consider that the scale of 3no. dwellings would result in such generation of trips for servicing, deliveries or taxis etc for occupants as to result in congestion and blocking of the laneway of Leeson Park. In this regard I disagree with reason no. 4 and recommend it is omitted. I consider the development would not exacerbate existing traffic and parking pressures, resulting in congestion and potential road safety issues for pedestrians, service vehicles and other users.

8.6. **Other Matters**

8.6.1. A third party suggests that the blue landownership line should be illustrated on the site location map as the applicants own the adjacent protected structures within the original plots. I note the application was validated by the Planning Authority who did not raise any concerns in this regard. I also note the further information response states the properties are in a different ownership and therefore am satisfied regarding the absence of the blue line.

8.6.2. A concern is raised regarding overlooking to existing dwellings in Leeson Park and their private open spaces and a suggestion that the layout does not comply with SPPR1 of the Compact Settlement Guidelines. SPPR1 requires a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses above ground floor. It does not provide protections for overlooking to private open space from windows above ground floor and in the case of the dense and urban character of the subject site which is already overlooked, I agree with this and do not consider the development would negatively impact the amenity of the adjoining open space to an unacceptable degree. With regard to overlooking to windows, the layout and use of rooms in the Leeson Park dwellings are unknown and therefore the separation distances below refer to the entire rear elevation above ground level. Both the FI design and revised plans provide a

separation of 17-18m to directly opposing windows. I consider this separation is adequate to uphold acceptable levels of residential amenity and privacy at existing dwellings.

- 8.6.3. A third party suggests there was a fundamental omission due to the applicant's failure to prepare a daylight and sunlight assessment however this report was submitted with the application and concludes that all windows and open spaces on existing and proposed dwellings would meet the BRE standards. It does note that negligible impacts would occur however this is based on the original three storey over basement design and therefore the revised plans which omitted the third storey would further reduce any impacts.
- 8.6.4. The applicants acknowledge they do not own the lane but claim they have a right of way which includes a right to undertake works. A third party who is one of the two landowners of the lane submitted an observation disputing the right to undertake works and suggests the lane should not be included in the site as necessary consent has not been obtained. It further requests An Coimisiún to consider the validity of the application when the applicant has insufficient legal interest to carry out the proposed development. Written consent under art. 22(2)(g) of the Planning and Development Regulations 2001, as amended, is required for the making of the application only and need not relate to the carrying out of the development. Section 34(13) of the Planning and Development Act 2000, as amended, provides that if the applicant lacks title or owner's consent to do works permitted by a planning permission, the permission does not give rise to an entitlement to carry out the development. In this instance where the two parties disagree over the powers afforded by the right of way to undertake the works, I am satisfied that the applicant has demonstrated sufficient legal interest to make the application and that Section 34(13) applies with regard to the civil matter of landowner consent to undertake the works.
- 8.6.5. The third-party appellant suggests that the applicant's revised plans fall outside the range of minor revisions and that An Coimisiún should consider the validity and lawfulness of assessing a proposal which has not been subject to public consultation. An applicant is entitled to submit revised proposals to address refusal reasons and I consider the omission of the second floor is immaterial when viewed against the wider scale and nature of the development as 3no. 3-bed dwellings are still

proposed. Further, there are no restrictions in planning legislation which specify that only minor revisions may be submitted for consideration in an appeal. I note that a notification regarding the appeal was sent to all parties who engaged with the planning process for this application and in this regard I am satisfied that sufficient public consultation was carried out.

9.0 **AA Screening**

9.1. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

9.2. This determination is based on:

- The minor scale and domestic nature of the proposed works on brownfield residential land.
- The location of the site with a separation distance of 2.7km from the closest European Site and lack of ecological connectivity.
- The proposed connection to public water and wastewater networks and the dilution of any discharges attributable to the subject site before reaching receiving waters.

10.0 **Water Framework Directive**

10.1. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive.

10.2. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.

- 10.3. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive.
- 10.4. Accordingly, the proposed development is considered to be compliant with the requirements of Article 4.

11.0 Recommendation

I recommend that planning permission is refused for one reason as follows:

1. Having regard to the design, layout and configuration of the development and its proposed private open space, it is considered that the proposed development would fail to provide an adequate quality usable private open space for the occupants of the proposed dwellings and, as such, would be contrary to SPPR 2 of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities which requires that proposals for new houses provide a *high standard of external amenity space in one or more usable areas* as well as sections 15.13.4 and 15.13.5 of the Dublin City Development Plan 2022-2028. The proposed development would, therefore, seriously injure the residential amenity of the area, would constitute overdevelopment of the site and would be contrary to the proper planning and sustainable development.
2. Having regard to the substandard nature and limited capacity of the lane to accommodate vehicular traffic including emergency and service access, and in the absence of a plan for the coordinated development of the lane, it is considered that the proposed mews development would be contrary to the aims and objectives of the Dublin City Development Plan 2022-2028, section 15.13.5.4 and also section 4.3.8 of Appendix 5, in terms of the width of the laneway and given that safe access and egress for all vehicles and pedestrians must be demonstrated. The proposed development would set an undesirable precedent for similar type development and would, therefore, 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.”

Sarah O'Mahony
Planning Inspector

13th May 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	ACP-PL-500774-DS-26
Proposed Development Summary	Construction of three terraced houses with terraces and balconies, partial removal of stone boundary wall and all associated site works
Development Address	Rear of 19-21, Leeson Park, Dublin 6
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q.2.
	<input type="checkbox"/> No, No further action required.
(For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.	EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	

3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.	No Screening required.
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.	EIA is Mandatory. No Screening Required
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	Class 10 (b)(i) Construction of more than 500 dwelling units. Threshold = 500 units. Proposal = 3 units Class 10 (b)(iv) 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. Threshold = 10ha Proposal = 0.04ha
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Form 2 - EIA Preliminary Examination

This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.

Characteristics of proposed development

(In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).

The development has a modest footprint, comes forward as a standalone project, does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.

Location of development

(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).

The development is situated in an urban area on brownfield land which is abundant in the area, zoned and highly accessible. It is in close proximity to existing residential properties which is not exceptional in the context of surrounding development.

The development is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan.

It is situated close to and visually connected to a high number of protected structures including being situated within the curtilage of 3no. protected structures. The impact of the development on built heritage is however

	assessed in the above report and does not trigger a requirement to carry out EIA.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the modest nature of the proposed development, its location removed from sensitive habitats, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ Date: _____