



An  
Bord  
Pleanála

## Inspector's Report ABP306149-19

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<b>Development</b>	Alterations to house, demolition of detached garage and the construction of a 3-storey detached dwelling.
<b>Location</b>	122 Rathfarnham Road, Terenure, County Dublin.
<b>Planning Authority</b>	Dublin City Council.
<b>Planning Authority Reg. Ref.</b>	3316/19.
<b>Applicants</b>	Padraig and Ciara Corrigan.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party -v- Grant.
<b>Appellants</b>	Mark and Nikki Kane.
<b>Observers</b>	Eimear and Michael O'Doherty.
<b>Date of Site Inspection</b>	25 <sup>th</sup> February, 2020.
<b>Inspector</b>	Paul Caprani.

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## 1.0 Introduction

ABP306149-19 relates to a third-party appeal against the decision of Dublin City Council to issue notification to grant planning permission for the demolition of a detached garage and the construction of a new three-storey detached dwelling at a side garden at No. 122 Rathfarnham Road, Terenure. The grounds of appeal argue that the proposed development should be refused on the basis that the site is unique, being located within a protected structure and within an ecologically sensitive habitat adjacent to the River Dodder. An observation was submitted which also suggests that the site is ecologically sensitive.

## 2.0 Site Location and Description

- 2.1. No. 122 Rathfarnham Road is located on the east side of the Regional Route R112 between the urban villages of Terenure and Rathfarnham approximately 6 kilometres south of Dublin City Centre. The subject site is located to the immediate north of the Dodder River. The R112 is a relatively busy radial route linking the outer suburbs of South County Dublin with Dublin City. The site is the more southerly of a pair of two detached dwellings which are located between the junction of Rathfarnham Road and Westbourne Road and the River Dodder.
- 2.2. The subject site accommodates a two-storey detached house with a side garden to the south of the house which accommodates a detached garage. Lands to the south of the detached garage incorporate a pronounced slope down to the northern banks of the River Dodder. The lands between the slope and the northern banks of the river accommodate a riparian mature woodland. The land on which the dwelling is to be located comprises of a side garden, which at the time of site inspection was covered with hardcore. It is not located upon the riparian woodland or slope but adjacent to it. The existing dwelling on site is a 1930s style detached structure with two-storey high circular bay windows. The house is on a higher ground level than the adjacent single-storey garage. The total site area which includes No. 122 Rathfarnham Road is 0.126 hectares (1,265 square metres).

### **3.0 Proposed Development**

3.1. Planning permission is sought for the construction of a new dwelling on the subject site. The new house is to be located to the immediate south of the existing dwelling on site between the southern gable of No. 122 and the sloped riparian woodland on the northern bank of the River Dodder. The proposed dwelling is to comprise of a three-storey structure with living accommodation (kitchen/dining/living/utility area) at ground floor level, two bedrooms the main bathroom and play room and a living room at first floor level, and three more bedrooms and a bathroom at second floor level. The ridge height of the proposed dwelling is to match that at No. 122 to the immediate north. The dwelling is to rise to a ridge height of 11.833 metres. The ground level of the proposed dwelling is approximately 2.55 metres below the ground level of the existing dwelling which rises to a ridge height of just less than 9.3 metres. The dwelling is to incorporate a brown brickwork external finish with long narrow fenestration at each floor incorporating a number of blind windows and a pitched slated roof to match the existing slate roof at No. 122. The existing vehicular entrance is proposed to serve the new house, while a new entrance and dished kerb to road is proposed to the immediate north and to the front of No. 122. It is also proposed to block up four openings on the southern elevation of the existing dwelling at No. 122, demolish the existing single-storey garage and demolish and reconfigure the external stepped access to the existing dwelling.

### **4.0 Planning Authority Decision**

#### **4.1. Decision**

4.1.1. Dublin City Council issued notification to grant planning permission for the proposed development on 20<sup>th</sup> November, 2019 subject to 9 standard conditions.

#### **4.2. Documentation Submitted with the Planning Application**

4.2.1. The planning application was accompanied by a planning report. It notes the land residential use zoning objectives pertaining to the site and also states that a pre-planning consultation took place with the Planning Department. Details of the issues

that were addressed in the pre-application consultation are set out. Details relating to the design rationale are also set out in the Planning Report.

#### **4.3. Initial Assessment by Planning Authority**

- 4.3.1. A number of letters of objection from residents living in proximity to the site were lodged with the Planning Authority. The contents of these letters have been read and noted.
- 4.3.2. A report from the Department of Culture, Heritage and the Gaeltacht note that the NPWS have received a number of reports over the years from local sources that a badger sett is located on part of the site, probably within the southern section of the site zoned Z9. Otters are also frequently observed on the adjacent stretch of the River Dodder and there is a strong possibility that an otter holt is located on the site. The Dodder Greenway has also been identified for daubenton's bat roost adjacent to Pearse Bridge. This bat species was relatively rare in County Dublin. On this basis, the applicant is requested to submit a badger and otter survey and a report on the lighting proposed for the proposed development, giving details of any data in relation to the increase in nocturnal illumination of the site. It is also suggested that a condition be attached to any grant of planning permission that any further removal of trees, shrubs or other vegetation within the greenway area should only occur with the express permission of Dublin City Council.
- 4.3.3. A report from the Engineering Department/Drainage Division states that there is no objection to this development subject to complying with the Greater Dublin Regional Code of Practice for Drainage Works.
- 4.3.4. A report from the Transportation Planning Division stated that there was no objection subject to a number of standard conditions.
- 4.3.5. The planner's report notes that the proposal is generally compatible with the zoning, plot ratio and site coverage standards. It is also considered that the proportion and scale of the proposed development would be compatible with the existing house and would not have a negative impact on neighbouring properties by way of overlooking.

4.3.6. Before determining the application, the initial planner's report recommended further information in relation to the following:

- The applicant is requested to submit a report outlining the likely effects of the proposed development, either alone or in combination with other projects on Natura 2000 sites.
- The applicant is requested to submit a badger and otter survey to establish the location of any badger setts or otter holts existing on site.
- The applicant is requested to submit a lighting report for the proposed development outlining an increase in nocturnal illumination of the site and adjacent areas particularly Pearse Bridge and the River Dodder. The applicant is requested to submit a flood risk assessment in accordance with OPW Guidelines.

#### 4.4. Further Information

4.4.1. Further information was submitted by the applicant on 22<sup>nd</sup> October, 2019. It is briefly summarised below.

4.4.2. The appropriate assessment screening report identified all the Natura 2000 sites within 15 kilometres of the proposed development the closest being the South Dublin Bay SAC which is 5.3 kilometres from the subject site. A total of 14 sites were identified. The report goes on to screen out each of the sites in terms of potential impacts on the conservation objectives associated with the sites. The report also assesses potential in-combination effects and concludes that there is no likelihood of significant in combination effects on Natura 2000 sites arising from the proposed development. The report states that the proposed development is located over 5 kilometres from the nearest Natura 2000 sites with no direct connection to these conservation sites. It concludes therefore that the construction and operation of the proposed development will not impact on conservation objectives or features of interest associated with Natura 2000 sites.

4.4.3. An Otter and Badger Survey was also carried out. No active badger setts or otter holts exist on site. A defunct and long abandoned burrow is on site but this is greater than 15 metres from the development which is located at a higher elevation at least 5

metres above the forest floor. The proposed development therefore will not impact on the abandoned burrow.

- 4.4.4. A lighting report is also appended as Appendix 1. The report concludes that the proposed development will not significantly impact on lighting levels on the River Dodder. The proposed development will not impact on bat species that use the River Dodder biodiversity corridor. No direct lighting from the proposed construction works should be directed towards the River Dodder or forest area. A lighting plan has been prepared and the proposed development should be carried out in accordance with the said plan. No additional external lighting should be placed within the entire site including the forest area.
- 4.4.5. Separately a flood risk report was prepared. It concludes that the Council have no record of flooding on the subject site. The subject site is outside the 1:100 year and 1:1000 year fluvial flood risk zones. It is also stated that there is no tidal flooding risk to the subject site. Also submitted is an OPW flood hazard map (the Board will note that the legend associated with this map is incorrect as the subject site is located to the immediate north of low probability flooding area as opposed to the high probability flooding area as indicated on the map).
- 4.4.6. A further planning report was prepared on foot of the additional information submitted and its states that the applicant has satisfactorily addressed the additional information request. It concludes that the principle of construction of a new dwelling at this location is acceptable having particular regard to the zoning objective for the site and it is further considered that the proposal is acceptable in terms of design and scale and is in keeping with the character of the area. On this basis, it is recommended that planning permission be granted for the proposed development.

## 5.0 Planning History

There appears to be no planning history associated with the subject site.

## 6.0 Grounds of Appeal

- 6.1. The decision was appealed by the owners of Nos. 3 St. Agnes Terrace. St. Agnes Terrace is a small cul-de-sac of single-storey properties on the south banks of the River Dodder directly south of the subject site.
- 6.2. The grounds of appeal argue that the site in question is unique as it is:
- Within the curtilage of a protected structure.
  - In an ecologically sensitive habitat that contains protected species.
  - Elevated on a retaining landbank at a flooding pinch point on the River Dodder.
  - On an elevated site that dominates St. Agnes Terrace and adjacent to Pearse Bridge which is a protected structure.
  - Within the immediate vicinity of an extremely busy road with major junctions and bus corridors.
  - Adjacent to a salmonid river.
- 6.3. The Dublin City Council planner's report dismissed the above concerns by merely stating that "the site is not uniquely elevated".
- 6.4. The appeal argues that there is a danger to the health and safety of the residents of St. Agnes Terrace on the basis that they have had debris fall onto their properties. It is also noted that plaster has fallen from the underside of the bridge onto the river when relatively minor works have been undertaken on the bridge (i.e. installing a road sign).
- 6.5. The potential for a landslide at this point on the River Dodder, due to the construction of the dwelling has also been ignored. At the very minimum, it is argued that a geo-technical survey should have been undertaken to alleviate any concerns in this regard.
- 6.6. The development is also to take place within metres of a protected structure (Pearse Bridge). It is argued that the proposal could have potential impacts on the integrity of the bridge and the retaining walls associated with the bridge.

- 6.7. It is also noted that Quality Bus Corridor and crossings are planned adjacent to the site. There is a need to ensure a safe means of access to and egress from any dwellings and that the proposal does not result in the creation of a traffic hazard particularly in the context of a Quality Bus Corridor.
- 6.8. There also exists within the site boundary, a water mill that is of archaeological and historic interest. It is suggested that the distance between the proposed dwelling and the protected structure should have been specified in this regard. The area surrounding Pearse Bridge is of specific archaeological importance and should be afforded special protection.
- 6.9. Furthermore, the proposed dwelling is only 22 metres from the riparian woodland on the south side of the river which the appellants or owners of and not 40 meters as suggested in the planner's report. Furthermore, as the site is more elevated than the appellant's dwelling, significant overlooking will occur.
- 6.10. Concern is also expressed in relation to the size and scale of the dwelling and it is argued that this is not reflective of the predominant character of the area, particularly as it is an architecturally mature area.
- 6.11. It is also noted that the area under Pearse Bridge is the only part of the Dodder that the daubenton's bat (protected under the Habitats Directive) is known to roost. In this regard Dublin City Council should have sought a bat survey.
- 6.12. Badgers and otters have also been observed on the Z9 lands adjacent to the site. Other observations and recordings of local wildlife including Kingfisher, Little Egret, Owl and Deer have also been sited in recent years in this locality. It would appear that Dublin City Council have given insufficient attention to the site's unique habitats. There are a number of attachments to the grounds of appeal including references to various websites referred to in the grounds of appeal.

## 7.0 Appeal Responses

- 7.1. A response was received on behalf of the applicant on 24<sup>th</sup> January, 2020. It is summarised below.
- 7.2. The site of the proposed dwelling is not within the curtilage of a protected structure. The adjacent bridge is listed on the National Inventory of Architectural Heritage.

However, there are no proposed works to the section of the site adjoining the bridge and as such a conservation report is not warranted.

- 7.3. It is also incorrect to state that the site is located in an ecologically sensitive habitat that contains protected species. An appropriate assessment survey and tree survey were submitted as part of the further information response to Dublin City Council which assessed these issues. In relation to flooding, it is noted that the site is located outside the 1:100 and 1:1000 year fluvial flood risk event.
- 7.4. With regard to the NTA Core Bus Corridor routes. It is noted that no land acquisition is proposed at the subject site and the Roads, Streets and Traffic Department Road Planning Division had no concerns about the widening of the existing entrance. It is stated that the proposal would fully comply with DMURS in terms of design guidelines.
- 7.5. The residential dwelling is to be located within the Z1 zoning objective governing the site and no development is planned or permitted on the Z9 section of the site.
- 7.6. With regard to debris falling on property as a result for works carried out at Pearse Bridge it is stated that the maintenance of public infrastructure is not relevant to the planning application before the Board.
- 7.7. With regard to potential landslides, attached as an Appendix to the arboricultural assessment report, is a report from an engineer who has consulted on the foundation design for the proposed development.
- 7.8. The proposal takes cognisance of the proximity of the River Dodder in the overall design and all surface water drainage will be contained within the Z1 section of the site.
- 7.9. With regard to the proposed water mill along the banks of the River Dodder, it is stated that the applicants have made numerous visits to the site and confirmed that there are no structures or ruins present. Furthermore, the various reports prepared in relation to the site in the course of the planning application, have made no reference to any water mill or structure on the Z9 lands.
- 7.10. In terms of separation distances, a drawing is attached (1804FI006) which clearly indicates that the separation distance between the proposed dwelling and the

boundary of the appellants' dwelling is in excess of 35 metres. The dwelling is in excess of 43 metres from the northern elevation of the appellants' dwelling.

- 7.11. It is argued that the design of the proposed dwelling is sensitive to the established building line on Rathfarnham Road and respects the existing character and context of the area through the elevation treatments and the use of high-quality materials.
- 7.12. With regard to a bat survey, it is noted that Dublin City Council commissioned an appropriate assessment screening. This screening report notes that there is no potential for roosts within the area of the proposed works. It is also noted that the lighting report submitted indicated that the proposed development will not contribute to any measurable increase in nocturnal illumination of Pearse Bridge or the River Dodder. There are no proposals to removal trees in the Z9 section of the site.

## 8.0 Observation

- 8.1. An observation was received from Eimear and Michael O'Doherty of No. 120 Rathfarnham Road, the dwelling to the immediate north of the subject site.
- 8.2. It is noted that badgers have been observed on site in the darkness adjacent to and on the Z9 zoned land and that badgers and their cubs have visited the observers' garden during the period on which they have resided at No. 120 (12 years).
- 8.3. It is stated that mammal trails have been detected in the observers' garden and holes are regularly dug in the garden lawn which may be caused by badgers foraging. For this reason, it is considered essential that a comprehensive badger survey be carried out in what is an ecologically sensitive area prior to a decision being made by An Bord Pleanála.

## 9.0 Development Plan Provision

- 9.1. The site governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022. The lands on which the proposed house is to be located are governed by the zoning objective Z1 with the objective to "*protect, provide and improve residential amenities*". Residential development is permitted in principle under this zoning objective. The contiguous lands to the immediate south of

the subject site are governed by the zoning objective Z9 to preserve, provide and improve recreational amenity and open space and green networks.

- 9.2. The Z9 riparian woodland between the subject site and the Dodder River is also a designated Conservation Area. Pearse Bridge is also listed on the RMP (DU022-0444-002).
- 9.3. Section 16.10.9 relates to policies concerning corner/side garden sites. It states that the development of a dwelling or dwellings in the side garden of an existing house is a means of making the most efficient use of serviced residential lands. Such developments, when undertaken on suitable sites to a high standard of design can constitute valuable additions to the residential building stock of the area and will generally be allowed for by the Planning Authority on suitable large sites.
- 9.4. However, some corner/side gardens are restricted to the extent that they would be more suitable for extending an existing home into a larger family home rather than to create a poor-quality independent dwelling which may also compromise the quality of the existing house.
- 9.5. The Planning Authority will have regard to the following criteria in assessing proposals for the development of corner/side garden sites.
  - The character of the street.
  - Compatibility of design and scale with adjoining dwellings, paying attention to the established building line, proportion, heights, parapet levels and materials of adjoining buildings.
  - Impact on residential amenities of adjoining sites.
  - Open space standards and refuse standards for both existing and proposed dwellings.
  - The provision of appropriate car parking facilities, and a safe means of access and egress from the site.
  - The provision of landscaping and boundary treatments which are in keeping with other properties in the area.
  - The maintenance of front and side building lines where appropriate.

## 10.0 EIA Screening Determination

Having regard to the nature of development comprising of a single dwelling in an urban area it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can therefore, be excluded by way of preliminary examination.

## 11.0 Planning Assessment

I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in the grounds of appeal and the observation as well as the applicants' response to the grounds of appeal. I consider the principle issues pertaining to the application before the Board are as follows:

- Principle of Development on the Subject Site
- Impact on Ecologically Sensitive Habitats
- Impact on Archaeology and Historic Heritage
- Impact on Strategic Bus Corridor
- Proximity of Appellants' Dwelling to the Subject Site
- Health and Safety Issues

### 11.1. Principle of Development on the Subject Site

11.1.1. The Board will note that the area in which it is proposed to locate the footprint of the building is zoned for residential development. Thus, subject to qualitative safeguards, residential development is permitted in principle on the lands in question. It is fully acknowledged that the southern boundary of the site is contiguous to Z9 zoned lands which are altogether more sensitive in terms of accommodating any type of development. However, the footprint of the building does not encroach on the Z9 zoned lands and therefore any residential development that is carried out within the confines of the Z1 zoning on the subject site would be acceptable in principle. The development plan also suggests that the provision of additional housing in corner/side garden sites, when undertaken on suitable sites can constitute valuable additions to the residential building stock of an area as a means of making the most efficient use of serviced residential lands. The development plan

notes that such development will generally be allowed by the Planning Authority on suitably large sites. Again, these statements contained in the development plan would also support the provision of a house on the subject site in principle.

11.1.2. Finally, I would refer the Board to wider strategic objectives contained in recently published plans and guidelines not least of which is the National Planning Framework. A major pillar in this plan in relation to land use planning is to provide for more compact development in existing urban areas by utilising existing services facilitating better use of public transport, cycling and walking and reducing the propensity for urban sprawl beyond the confines of the built-up area. The principle of developing a house on the subject site is therefore fully in accordance with this overarching policy objective.

## 11.2. **Impact on Ecologically Sensitive Habitats**

11.2.1. A major issue raised in the grounds of appeal expresses concerns that the proposed development will have an unacceptable impact on the habitats and species associated with the riparian woodland along the banks of the River Dodder. This concern was also raised by the Planning Authority in the course of determining the current application. In this regard the Planning Authority requested the applicants to submit a tree survey of the lands in question. Surveys undertaken on site indicated that the excavation revealed that the area is made up of manmade ground with extensive rubble and other materials. I also refer the Board to my site inspection which clearly indicates that the land on which the house is to be located comprises of a flat area of land devoid of any vegetation including trees and covered with hardcore. As already stated, the proposed house is to be located completely within the confines of the Z1 zoning and will not impinge or encroach on the riparian woodland to the immediate south. It is also apparent that the proposed development will not result in any damage or removal of trees associated with the riparian woodland of the River Dodder. On this basis I do not accept that the proposed development will result in the loss or fragmentation of habitat that could impact on the habitats or foraging areas associated with otter, badger, bats or owls etc.

11.2.2. I do not dispute the veracity of the appellants or observers' comments in relation to the presence of badgers and other species within the gardens of the dwellings in question. It would not be unusual that such species may stray beyond the riparian

corridor associated with the river and into adjoining gardens etc, particularly during nocturnal hours. Furthermore, there is nothing to suggest that the construction of a dwelling on the subject site would inhibit badgers or other animals from straying beyond the confines of the riparian woodland and into adjoining gardens.

11.2.3. I would also refer the Board to the appropriate assessment screening report submitted on foot of the surveys undertaken. It is concluded that no flora or fauna of conservation importance were noted on site. No records of threatened or legally protected plant species are known to occur within the site. Based on the above information, I am satisfied that the proposed dwelling at this location will not adversely affect the ecology associated with the River Dodder or the riparian woodland adjacent to the River Dodder.

### 11.3. **Impact on Archaeology and Historic Heritage**

11.3.1. The grounds of appeal are incorrect in suggesting that the existing residential dwelling at No. 122 Rathfarnham Road is listed on the Record of Protected Structures. No 122 Rathfarnham Road is not a Protected Structure. Pearse Bridge is listed in the Record of Monuments and Places and this is reflected in the development plan. The subject site however is not connected to or contiguous to the span of the bridge. The bridge abutment appears to end at the top of the riparian bank near where the Z1 zoning meets the Z9 zoning on site. The closest part of the proposed house is located circa 8 to 10 metres from the bridge abutment. There is nothing to suggest that the development of a single dwelling on the subject site will in any way compromise or impact on the structural integrity of the bridge in question. Furthermore, it cannot be reasonably argued in my opinion having regard to the built-up and urban nature of the surrounding area that the provision of an additional dwelling will in anyway detract from or impact on the setting or character of the bridge in question. The National Inventory of Architectural Heritage notes that the bridge in question is of a particular architectural, artistic and technical interest and dates from sometime between 1790 and 1810. The appraisal of the bridges notes that it consists of a new “*sturdy single arch bridge barely noticed when travelling the road above which is typical of other Dodder bridges that have been widened for the modern day needs of traffic. Its original east elevation, which is a fine example of the type, is rarely seen by the passing public above but it is a feature of the riverside walkway*”. I consider that provision of an additional dwelling which will be somewhat

screened by the riparian woodland along the river will not have a significant or material impact on the visual amenities when viewed from the riverside walkway.

11.3.2. Reference is also made in the grounds of appeal to the location of a watermill on the eastern side of the bridge within the riparian woodland on the north banks of the river (i.e. the Z9 zoned land to the immediate south of the subject site). A watermill is listed on the Record of Monuments and Places. However, its reference is unclassified and having inspected the subject site I would agree with the applicant there appears to be no remnants of the mill in question when viewed from the curtilage of the subject site. It is however possible that some remnants of the mill may be in existence below the undergrowth. I do however not that applicant submitted in his response to the grounds of appeal that numerous surveys have taken place on the site and no evidence of the mill has been uncovered.

11.3.3. If the Board deems it appropriate a condition could be attached requiring archaeological monitoring. I note that no such condition was attached to Dublin City Council's notification to grant planning permission for the proposal.

#### **11.4. Impact on Strategic Bus Corridor**

11.4.1. The grounds of appeal suggest that it is 'incredulous' that the Transportation Planning Department have no issue with the fact that a new access is to be created along the emerging preferred route for a quality bus corridor. The implications set out in the grounds of appeal would infer that no new access could be considered contiguous to any of the preferred routes for quality bus corridors. The proposed new entrance is located on a section of roadway where good sightlines are afforded in each direction and it is further noted that there is a proliferation of entrances along the entire route of the quality bus corridor route. I would fully endorse the conclusions set out in the Road and Transportation Planning Division report that the provision of a new 3.6 metre wide vehicular entrance is acceptable at this location. There is an existing cycleway along the frontage of the site and there is an inbound bus lane directly opposite the subject site. The provision of an upgrading of the bus corridor would not and should not in itself preclude the provision of additional entrances onto the road.

## **11.5. Proximity of Appellants' Dwelling to the Subject Site**

11.5.1. It is argued that the proposed development will impact on the appellants' amenity and that the separation distances between the proposed dwelling and the appellants' site is a mere 22 metres, much less than that suggested in the documentation submitted. A drawing submitted with the applicants' response to the grounds of appeal clearly indicates a separation distance between the boundary of the appellants' site and the north elevation of the appellants' dwelling. The separation distances are 35.5 and 43.1 metres respectfully. This is a very generous separation distance for an urban area and exceeds the requirements for separation distance for both urban and suburban areas. While I acknowledge that the site is more elevated than the lands on which the appellants' dwelling is located the presence of mature riparian woodland along the northern banks of the Dodder will assist in screening the proposed development and will further protect the amenity of the appellants. Having regard to the separation distances involved it cannot be reasonably argued in my opinion that the proposed development will give rise to a degree of excessive overlooking, overshadowing or overbearing so as to adversely affect the appellants' amenity.

## **11.6. Health and Safety Issues**

11.6.1. It is argued that works undertaken on the bridge including minor works have resulted in the dislodgement of plaster material beneath the bridge. It is implied that similar problems could well occur should the development proceed. I have referred to the fact above that the proposed development is located between 8 and 10 metres from the nearest point of the bridge abutment. It appears that the works referred to in the grounds of appeal took place on the bridge. The proposed development will take place a significant distance from the bridge and therefore will not in my opinion have any material impact on the structural integrity of the bridge so as to dislodge any material on the undercroft of the bridge which could result in health and safety issues for the appellants or surrounding residents. I am satisfied therefore that the proposed development will not give rise to any significant or material health and safety issues for surrounding residents.

## 12.0 Conclusions and Recommendation

Arising from my assessment above I recommend that An Bord Pleanála uphold the decision of the planning authority and grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

## 13.0 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

## 14.0 Reasons and Considerations

Having regard to the Z1 zoning objective pertaining to the site it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity, would not be prejudicial to public health or surrounding ecology and would generally be acceptable in terms of traffic safety and convenience. The proposed development will therefore be in accordance with the proper planning and sustainable development of the area.

## 15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the plans and particulars received by Dublin City Council on 22<sup>nd</sup> day of October, 2019, 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 the 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 external finishes to the proposed dwelling including colours, materials and textures shall be agreed with the planning authority prior to the commencement of development.

**Reason:** In the interest of visual amenity.

3. The developer shall comply with the following requirements of the Transportation Planning Division of Dublin City Council.
  - (a) Prior to commencement of development, and on the appointment of the main contractor, a construction management plan shall be submitted to the planning authority for written agreement. This plan shall provide details of attendant construction practice for the development, including traffic management, hours of working, noise management measures and off-site disposal of construction/demolition waste.
  - (b) Driveway entrances shall not have outward opening gates.
  - (c) Footpath and kerb to the front of the new entrance shall be dished and in accordance with the requirements of the Area Engineer Roads Maintenance Department.
  - (d) 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.

**Reason:** In the interest of traffic safety.

4. Water supply and drainage arrangements including the attenuation of surface water shall be agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interest of public health.

5. The applicant or developer shall enter into a water and/or wastewater connection agreement with Irish Water prior to the commencement of development.

**Reason:** In the interest of public health.

6. The development shall be carried out in accordance with the lighting plan submitted as part of the additional information to the planning authority.

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

7. Tree protection measures including fencing shall be erected prior to any construction works commencing and must be in accordance with BS5837 (2012). Within a period of six months following the substantial completion and occupation of the proposed development, any planting which is damaged or dies shall be replaced with other of similar size and species.

**Reason:** In the interest of visual amenity.

8. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

9. The developer shall pay to the planning authority a financial contribution of €22,464 (twenty two thousand four hundred and sixty-four euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

10. Site development and building works shall be carried out only between the hours of 7.00 a.m. to 6 p.m. Monday to Friday, between 8.00 a.m. and 2 p.m. on Saturday and not at all on Sundays or public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

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Paul Caprani,  
Senior Planning Inspector.

30th March, 2020.