



An
Bord
Pleanála

Inspector's Report

ABP-304085-19

Development

PROTECTED STRUCTURE:

Demolition of all buildings on the former commercial site to the rear and construction of 20 houses.

Location

1 Annesley Park, Dublin 6

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

4011/18

Applicant(s)

Seabren Developments

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Deidre O'Leary & Others

Belgrave Residents Association

Owen O'Sullivan

Ann & Muriel Hinch

Alan Reilly

Suzanne Ryan

The Concerned Residents of Annesley

	Park/Killeen Road
Observer(s)	Bill Harte & Others Maureen Kennelly & Others
Date of Site Inspection	16 th August 2019
Inspector	Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is a former factory site, located to the rear of properties on Annesley Park to the east, Ormond Road to the south, Killeen Road to the west and on Dunville Avenue to the north. There is also terrace of houses on Dunville Close, to the north of the current site access.
- 1.2. There is a laneway that runs between the site and No's 1 to 13 Annesley Park. There is also a laneway that runs between the site, and the rear of properties on Ormond Road South, and the rear of properties to the rear of properties of Killeen Road.
- 1.3. The site is within 650m of Ranelagh Village, located to the north-east of the site. Beechwood Luas station is located 250m to the east of the subject site.
- 1.4. The site is currently occupied by a vacant former factory building that has been extended over time and a number of smaller outbuildings, to the north of the site, and an area of open space to the south. Access to the site is via Dunville Close to the north-eastern corner of the site, adjacent to 1 Annesley Park, which also forms part of the appeal site. No 1 Annesley Park is a Protected Structure.
- 1.5. The overall site area is stated as 0.5ha.

2.0 Proposed Development

- 2.1. The proposed development consists of the following elements:
 - Demolition of all buildings and the construction of 20 houses, consisting of 11 no. 3 storey 4 bed houses, 9 no. 2.5 storey 3 bed houses.
 - 1 car parking space per unit with 2 no. visitor car parking spaces.
 - Widening of the access road along Dunville Close to 4.8m, including relocation of the side boundary wall and removal of a shed to the rear of No. 1 Annesley Park, a Protected Structure.
 - All associated site development works.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Grant permission. Conditions of Note include:

- Condition 3(e) revised proposals for management of surface water.
- Condition 4(a)(i) revised landscaping proposals to provide additional high soft landscaping treatment to the perimeter of the site.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer reflects the decision of the planning authority.

Points of note are as follows:

- Generally meets Development Plan Standards – slight shortfall in the private amenity space – central location is noted.
- A financial contribution in lieu of public open space is considered appropriate, having regard to the site layout and access.
- High quality scheme that is generally appropriate for the architectural character of the area.
- Scale of development is generally in accordance with surrounding scale of development.
- Change in levels mean that structures may exceed the height of some existing development in the area.
- Stepping back of the third floor will reduce impact on surrounding dwellings.
- Stepping back of first/second floor of dwelling A9.11 will reduce impact on the rear of No. 31 and 33 Annesley Park.
- Opaque windows to the bedrooms of house types A9i and A9ii are not appropriate.

- Additional mature planting required to the south of the site in order to maintain the privacy of private amenity areas along Annesley Park.
- Additional shadow diagrams for the spring/summer late evening context are required.
- No objection to the provision of on-site car parking to provide car storage and support family friendly living in the city/overall level of provision is considered acceptable.
- More information required on the historic boundary material to No. 1 Annesley Park/more satisfactory garden area required for this property.
- Verified views showing the relationship of the proposal to the rear of the surrounding Protected Structures should be provided.

3.2.2. Further Information was requested in relation to (i) setbacks to the top floors of dwellings (ii) setbacks to upper storeys of dwelling A9.11 (iii) Omission/revised proposals for the obscure windows to bedrooms (iv) additional planting along eastern boundary (v) submission of additional shadow diagrams (vi) indicate height of existing dwellings backing onto the subject site (vii) submission of verified views showing relationship to surrounding Protected Structures; survey drawings of existing boundary wall of No. 1 Annesley Park; further information on works to the Protected Structure (ix) Submission of a site specific Flood Risk Assessment (x) Revised proposals for surface water management.

3.2.3. Further information was submitted on the 25/01/2019 and was considered acceptable. The Recommendation was to grant permission.

3.2.4. Other Technical Reports

Drainage – Additional information requested.

Roads – No objections subject to conditions.

Conservation - Additional information requested.

Air Quality Monitoring and Noise Control Unit - No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1. None.

3.4. **Third Party Observations**

- 3.4.1. 31 no. submissions were received. The issues raised are covered within the grounds of appeal.

4.0 **Planning History**

- 4.1.1. None.

5.0 **Policy Context**

5.1. **Development Plan**

Dublin City Development Plan 2016-2022

The majority of the site is zoned Z1 – To protect, provide and improve residential amenities. There is a portion to the north-east of the site (No. 1 Annesley Park) which is zoned Z2 ‘to protect and/or improve the amenities of residential conservation areas’.

Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Policy CHC2 - To ensure that the special interest of protected structures is protected.
- Policy CHC5 – To protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas.
- Section 16.2.1 Design Principles
- Section 16.2.2.2 Infill Development
- Section 16.10.2 Residential Quality Standards – Houses– sets out standards to be achieved in new build houses
- Section 16.10.3 Residential Quality Standards – Apartments and Houses
- Section 16.10.8 Backland Development

5.1.1. The following Section 28 Ministerial Guidelines are of relevance to the proposed development.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (May 2009).
- Design Manual for Urban Roads and Streets (2019).
- The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') (2009).
- Architectural Heritage Protection – Guidelines for Planning Authorities (2011)

5.2. Natural Heritage Designations

5.2.1. None.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. 7 no. number of Third Party Appeals have been received. The Grounds of Appeal can be summarised as follows:

1. Deidre O'Leary and Others (submitted by Reid Associates), No's 17, 19, 23, 29 and 31 Annesley Park

Procedural Issues

- Application should have been invalid as the applicant's did not include a letter of consent/decision is therefore *ultra vires* as application as invalid from first principles.
- Red line boundary was changed.

- Letter of consent does not include all of the relevant land.
- Applicant has insufficient legal interest to carry out the development.

Impacts on Amenity

- Impacts on amenity including overbearing impact, loss of privacy and overshadowing.
- Plans serve to overestimate the separation distances/not all recent extensions have been identified.
- Removal of opaque glazing result in overlooking being made worse.
- Noise issues resulting from the residential properties including from the terraces at the upper levels.
- Density of the development results in a wall of development that is incongruous.
- Changes made as part of the Further Information submission are minor and do not address the scale of the adverse impacts arising.
- Loss of sunlight to neighbouring gardens.
- Impact on property values.
- In relation to impact on Skylight - not all VSC results have been included.
- In relation to Sunlight – APSH checks for sunlight to living rooms and conservatories have not been completed.
- Images in the Daylighting and Overshadowing report are unclear/are not legible.
- Excessive scale, height and depth will impact on amenity.

Design

- Excessive height and scale
- Height of the development is out of character – effective height of more than 11m/is over 4m above the height of the ridgeline of properties on Annesley Park.
- Over dominant and imposing monolithic development/massing and scale is incongruous/seriously injurious to the visual amenities of the area.

Conservation/Protected Structures

- Impact on setting of Protected Structures and Residential Conservation Area
- Little consideration in the design to the surrounding Victorian context, where almost all properties are listed as Protected Structures.
- Failure to justify the demolition of part of the protected structure in architectural heritage terms.
- Photomontages do not show the relationship to the surrounding Protected Structures.
- Applicant's Further Information submissions does not adequately respond to the key conservation issues raised.
- Photomontages are included which highlight the impact on the neighbouring Protected Structures.
- Planning Authority failed to have regard to conservation impacts of the proposed development.
- Have instructed a Conservation Architect to review the Sketch Render Photomontages – concludes that the impact on the Protected Structures is very significant and negative
- Proposed development does not comprise exceptional circumstances to justify the demolition of a protected structure.
- Would set an adverse precedent.
- Loss of a street tree/impact on conservation area/no legal authority to remove the tree.
- Development should be subsidiary to the Protected Structures.

Traffic

- Proposed access would endanger public safety by way of a traffic hazard or obstruction of road users
- Proposal would result in traffic congestion/assessment of traffic has been flawed.
- Capacity assessment ignores on street parking meters on both sides of the road/limits width of the road.

- No traffic safety audit submitted.
- Design fails to comply with DMURS.
- Level of parking provision is inadequate.
- Proposed development endangers public safety by reason of traffic hazard or obstruction of road users.
- Construction Management Plan is deficient

Flood Risk/Infrastructure

- Services infrastructure capacity is inadequate to cater for the proposed development
- No Site Specific Flood Risk Assessment was submitted as required by the Further Information request.
- High risk of flooding due to the lack of capacity in the sewer system/Precautionary approach should be adopted/extent of pluvial flooding is unknown/Risk of off site flooding has not been addressed.
- No justification of the development as is required by national guidelines/Site is located within flood zone B.
- Would contravene SFRA Appendix to the Dublin City Development Plan.

Other

- Landscaping plan is unrealistic.
- Planning report does not refer to the Sketch Render Photomontages or any third party submissions on the additional information.
- Potential impacts on bats and wildlife has not been considered/impacts of the streetlights/no bat survey submitted/potential for bats to roost in existing buildings on the site.
- Issue of contaminated land has not been addressed – submitted report notes existing of building and domestic waste.
- Enclosed –letter from Conservation Architects/Photomontages.

2. Belgrave Residents Association, P.O. Box 4612, Rathmines, Dublin 6

- Exceeds the height of the surrounding houses
- Proposed houses have imposing vertical forms.
- Only open aspect is to the rear of houses at Killeen Road.
- Photomontages submitted are selective and extremely limited.
- There are only two houses surrounding the site that are 2.5/3 storeys/cannot be used to justify scale of development.
- May well be an underlying watercourse/site has acted over the years as an area of relief for rainwater saturation.
- Residents may over time leave their bins for collection on nearby roads/would be an obstruction/hazard to pedestrians/including children trying to pass on the footpath.

3. Owen O'Sullivan, 19 Annesley Park

- Will overlook all living spaces and garden.
- Total loss of residential amenity.
- Impact on health and well being.
- Proposed access is inadequate and unsafe.

4. Ann and Muriel Hinch, 6 Annesley Park

- Proposal is not in keeping with the period properties and listed building in the area.
- Houses are higher than existing houses/negative impact on the streetscape.
- Impacts on privacy/access to light
- Impact on the Protected Structure at No. 1 Annesley Park
- Will exacerbate parking problems/traffic generation/bin lorry access

5. Alan Reilly, 17 Annesley Park

- As the site narrows from north to south the proximity of the development to existing homes narrows and significantly reduces occupant's privacy.
- Displacement of vermin on site and other environmental hazards

6. Suzanne Ryan, 23 Annesley Park

- Decision will affect 42 homes in the surrounding areas of Annesley Park, Ormond Road and Killeen, all of which are Protected Structures.
- DCC Conservation Officer expresses serious concerns in relation to the proposed development.
- There are 2 National Schools within 200m of this laneway.

7. The Concerned Residents of Annesley Park/Killeen Road (Submitted by David Mulcahy Planning Consultants Ltd), 7 and 9 Annesley Park; 4, 6, 8, 14, 24, 26, 28, 42 and 44 Killeen Road.

Impacts on Amenity

- Proximity of the second floor windows are far too close.
- A number of the bedroom windows fall short of the required separation distance of 22m.
- Overlooking from the front balconies.
- Will materially contravene the zoning objective which seeks to protect the residential amenity of the area.
- Setback distance between proposed dwellings and existing dwellings at the northern end of the site is low.
- No precedent for balconies or terraces in the surrounding area
- Impact of ESB Transformer having regard to noise emissions.

Traffic

- Will result in more parking on the surrounding streets.
- There is a shortfall in the required public open space.
- There is no conveniently accessible areas of public open space in the vicinity.

Other

- Proposed development only provides 3 and 4 bed dwellings – goes against the trend for smaller household sizes in the future.
- Quality of the terrace spaces is questioned
- Materially contravenes Policy QH6.
- There is no provision for social infrastructure.
- Two storey development would be more in keeping with the character of the area.
- Council did not reflect the conservation officer's concerns.

6.2. Applicant Response

6.2.1. The applicant's response to the 7 no. Third Party appeals is set out as follows:

Procedural Issues

- No changes proposed to the lands referred to in the submission from Reid Associates.
- Points raised by the appellants are not relevant to the decision of the Board.

Protected Structures

- The special interest of the houses on Annesley Park and Killeen Road lies in their contribution to the streetscape.
- The development has no impact on the streetscape.
- Design and height reflects the surrounding area.
- Criticism is unsubstantiated and takes insufficient account of the documentation submitted
- Development is not within the curtilage of the protected structures
- View of RMA Architects is not shared by Conservation Officer
- Cannot vouch for the veracity of the submitted photomontages/views
- The boundary wall of the protected structure at No. 1 Annesley Park does not contribute to its special architectural interest/realignment of the boundary wall

does not adversely affect the character/does not represent the demolition of the protected structure.

Impact on Amenity

- Overlooking has been mitigated through design and window orientation.
- There are no inaccuracies in the plans/all extensions have been picked up.
- Daylight Analysis shows little impact.
- Any impact on gardens is in line with BRE Recommendations

Design/Visual Impact

- Site is a backland site so the principle of subsidiary is not appropriate in this instance.
- Terrace is in keeping with the character of the area and incorporates bay windows, light wells and set-backs.
- Negligible impact on streetscape.

Other

- Planned attenuation of surface water will substantially reduce the peak stormwater outflow compared – flood risk is reduced.
- No objection from the Planning Authority in relation to infrastructure.
- No evidence of contaminated lands.
- Proposed development would have an unnoticeable impact on established local traffic conditions.
- No reference to any archaeological investigation

6.3. Planning Authority Response

6.3.1. None.

6.4. Observations

6.4.1. Two no. observations received from and (1) Bill Harte & Others and (2) Maureen Kennelly & Others

1. Bill Harte & Others

- Out of keeping with existing houses/exceed height of surrounding structures
- Overlooking/Overshadowing of neighbouring properties
- Lack of open space/lack of space for children
- Impacts on the character of the area/Protected Structures
- Flood risk
- Increase in traffic levels/pressure on parking
- Refuse bins may be left on the street.

2. Maureen Kennelly & Others

- Verified photographs are selective/insufficient to envisage negative impact on streetscape/established building lines/more complete photomontages required.
- Houses are higher than existing houses/development is too high, bulky and dominant/proximity to Protected Structures
- Would cause serious overshadowing
- Impact on the conservation area
- Flooding Issues
- Inadequate parking provision/no mention of parking during construction phase
- No consideration of traffic volumes or specific traffic management plan
- Control of vermin not considered.

6.5. **Further Responses**

6.5.1. A further response to the Applicant's submission of 29/04/2019 was received on 30/05/19 from Belgrave Residents Association. This is summarised below:

- Applicant has not responded to concerns.
- Proposal would read as three storeys
- Building line should be maintained.

- Applicant does not propose any measures to mitigate traffic impact
- Local knowledge should be taken into account when considering flooding.

6.5.2. A response to the Applicant's submission of 29/04/2019 was received on 30/05/19 from Deidre O'Leary and others. This is summarised below:

- Lacking sufficient legal interest to make the application.
- Proposal would disrupt the unit of the character and setting of the protected structures.
- Stand over the veracity of the photomontages submitted.
- Floor areas of houses are on average 30% larger than surrounding houses
- Applicant has not justified the design approach.
- Applicant's response to the contaminated land issue is ill considered and incorrect.

6.5.3. A response to the Applicant's submission of 29/04/2019 was received on 06/06/2019 from Alan Reily. This is summarised below:

- The site is extensively a green field site
- Traffic flow was minimal from previous use
- Living room is below ground level – proposed development will be dominant in appearance
- Protection of the structures is not limited to the streetscape.
- Applicant has not corrected the drawings or other documents
- Was recent flooding on Dunville Avenue with significant run off from the site.

6.5.4. A response to the Applicant's submission of 29/04/2019 was received on 06/06/2019 from Suzanne Ryan. This is summarised below:

- Does not address adverse impact on surrounding houses.
- Inaccuracies on drawings.
- Flooding – Report from Paul Johnston, Engineering Hydrologist dated 4th June is submitted with the response.

6.5.5. A response to the submission from Suzanne Ryan of 06/06/2019 was received from Alan Reily on 24/06/19. This is summarised below:

- Observation confirms local concerns in relation to flooding.
- Local authority has not assessed the issue of flooding accurately.

6.5.6. A further response from the Applicant was received on 30/06/2019 and is detailed as follows:

- Reiterates previous submissions.
- Report in relation to Flooding Issues prepared by Torque Engineering has been submitted.
- Flood risk to surrounding sites is reduced.

6.5.7. A further response to the submission from Suzanne Ryan of 06/06/2019 was received from Deidre Reilly and others on 01/07/2019 which reiterates previous submissions.

6.5.8. A further response to the submission from Suzanne Ryan of 06/06/2019 was received from Belgrave Residents Association which supports the points made.

7.0 **Assessment**

7.1. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The main planning issues in the assessment of the proposed development are as follows:

- Principle of the proposed development/Density
- Residential Amenity
- Design and Visual Amenity/Conservation Area/Protected Structures
- Transport
- Residential Standards
- Flood Risk/Drainage
- Ecology
- Appropriate Assessment

7.2. Principle of the proposed development/Density

- 7.2.1. I note that the majority of the site is zoned Z1 'to protect, provide and improve residential amenities' with a portion to the north-east of the site (No. 1 Annesley Park) which zoned Z2 'to protect and/or improve the amenities of residential conservation areas'. It is noted that residential development is an acceptable land use within both the Z1 and Z2 zoning matrices. As such the current proposal for 20 residential units is acceptable in principle, subject to the considerations below.
- 7.2.2. The proposed density is 40 units/ha. Having regard to the criteria as set out in the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, the site can be defined as both a 'public transport corridor', given its proximity to the Luas station and can be defined as an 'inner suburban/infill' site, given the backland character of the site. Both such sites are identified within the Guidelines as being suitable for higher densities, with minimum net densities in Public Transport Corridors of 50 units/ha, subject to appropriate design and amenity standards. In relation to 'inner suburban/infill sites', it is noted that a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.
- 7.2.3. As such given that the site is located proximate to public transport, but is also somewhat constrained by the backland character of the site, on balance, there is no objection to the density of 40 units/ha proposed, subject to the detailed assessment below.

7.3. Residential Amenity

- 7.3.1. Section 16.10.8 of the Development Plan refers to Backland Development. This states that, *inter alia*, the development of individual backland sites can conflict with the established pattern and character of development in an area and can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. However, it does not however rule out well integrated backland development and states that applications for backland development will be considered on their own merits.

- 7.3.2. I have had regard also to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (May 2009). Section 5.9 of these Guidelines refers to infill residential development, and notes that potential sites may include backland areas. In assessing applications for infill development, the guidelines note a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.
- 7.3.3. Therefore, while the principle of a backland development can be supported within the residential land use zoning, it needs to be ascertained whether the proposed development on the appeal site is in keeping with the established character and pattern of development in the vicinity, and would not be detrimental to the amenities of adjoining residential properties or the character of the area.
- 7.3.4. Surrounding the site are houses on Annesley Park to the east, on Ormond Road South to the south, on Killeen Road to the west and on Dunville Avenue to the north. There is also terrace of houses on Dunville Close, to the north of the current site access. There is a laneway that runs between the site and No's 1 to 13 Annesley Park. There is also a laneway that runs between the site, and to the rear of properties on Ormond Road South, and the rear of properties to the rear of properties of Killeen Road.
- 7.3.5. The Third Party Appellants have raised the issue of residential amenity, including loss of daylight/sunlight/overshadowing, loss of privacy/overlooking and visual impact.
- 7.3.6. The Applicant states that amenity impacts have been minimised through the design of the proposal.

Daylight/Sunlight/Overshadowing

- 7.3.7. A revised Daylight, Sunlight and Overshadowing Study was received by the Planning Authority on 25/01/2019, further to a request for Further Information. In relation to daylight impacts on surrounding properties, 158 of 159 windows tested have a VSC of 27% or greater than 0.8 times their former value, in line with BRE recommendations. I note that the dwellings to the north of the site at 1, 2 and 3 Dunville Close have not been considered in the study. However. the windows to these houses are somewhat compromised by the existing boundary wall of the site,

and by the design of the houses themselves, with the windows of the closest dwelling, at first floor level, inset under the eaves. I do not consider that there would be a material impact on daylight/sunlight levels to these properties.

7.3.8. In relation to overshadowing of existing amenity spaces, it is stated that any rear garden currently receiving at least 2 hours of sunlight for over half of its area on 21st March will continue to do so with the proposed development in place, in line with BRE recommendations.

7.3.9. I note there is impacts on rear gardens, especially at during the December Scenario. However, the plan views indicate that the March 21st scenario is in line with BRE Guidance, and as such the impact on rear amenity spaces is considered acceptable.

Loss of privacy/overlooking

7.3.10. In relation to potential overlooking of surrounding properties, there is a least a 21m first floor window separation distance to the properties on Annesley Park. The rear of the proposed houses facing the rear of Killen Road have windows at first floor level but views are obscured as a result of the terrace wall. In any case there is at least 17m window to window distance. Landscaping is also proposed to further screen the development. I note the planning authority, by way of condition, has sought additional high planting to provide additional screening. I do not have an objection to re-imposing this condition. While I note the concerns of the Third Party Appellants in relation to the relatively narrow strip of land provided for such planting, a condition can be imposed to ensure that species that are planted are maintained. Having regard to same I do not consider that any material overlooking will result from the proposed development.

Visual Impact/Overbearing

7.3.11. 17 of the 20 properties are essentially three storey dwellings, with the third storey setback from the Annesley Road boundary and sloping roofs facing towards the Killen Road properties. Both the setback and the sloping roofs help to minimise the visual impact of the proposal. The setback distance, at least 17m, from the properties on Annesley Road and Killen Road, is also significant.

7.3.12. The remaining 3 no. properties (Units A9.09, Units A9.10 and Units A9.11) have a different orientation from the remainder, and with the gable end of Unit A9.11 facing

towards the rear of No's 29 and 31 Annesley Road, and the gable end of Unit A9.09 facing towards the single storey outbuilding off the laneway to the south of the site. The gable end of Unit A9.11 is 6.8m from ground level, with the third floor element of Unit A9.11 set back 1.4m from the gable elevation. The dwelling itself is set back 1.6m from the boundary of No's 29 and 31. The setback from the boundary and the setback at second floor level, and the sloping roof proposed, will serve to reduce the visual impact when viewed from the rear gardens of No. 29 and 31 Annesley Park.

- 7.3.13. Overall, while the proposed dwellings will be visible from surrounding properties, the overall visual impact is acceptable and will be further softened by the proposed landscaping.

Noise

- 7.3.14. The issue of noise and disturbance, arising from the use of the site as a residential development, and from the proposed terraces, has been raised by the Third Party Appellants. Given the setback of the existing houses from the proposed properties I do not consider there will be a material impact on amenity as a result of noise from the general day to day activities associated with the site, or from the proposed terraces.
- 7.3.15. In conclusion, I consider do not considered that that proposal will have a material impact on the residential amenity of surrounding properties.

7.4. Design and Visual Amenity/ Conservation Area/Protected Structures

Design Visual Amenity/Conservation Area

- 7.4.1. In relation to design, the proposed dwellings have referenced surrounding developments in the proposed materials, and in the proposed terraced layout. While contemporary in appearance, the proposal seeks to minimise the scale of the properties by incorporating setbacks at second floor levels and sloping roofs. In my view, the overall scale of the dwelling houses is appropriate for their context and represents an acceptable quantum of development, relative to the overall site area.
- 7.4.2. I note the visual impact of the proposal on the streetscape will be limited, with only occasional views into the site from the surrounding roads, with a subsequent limited impact on the character and appearance of the residential conservation area.

Protected Structures

- 7.4.3. The proposal includes alterations to the boundary wall and the demolition of a lean-to shed in the garden of No. 1 Annesley Park, which is a Protected Structure, in order to provide a widened access to the proposed development. All of the properties bounding the site are also Protected Structures, save for No. 45 Dunville Avenue, and 1, 2 and 3 Dunville Close.
- 7.4.4. The Third Party Appellants and the observers on the appeal have raised concerns in relation to the impact on the Protected Structure at 1 Annesley Park, and also in relation to the impact on the other Protected Structures in the vicinity.
- 7.4.5. The First Party states boundary wall of the Protected Structure at No. 1 Annesley Park does not contribute to its special architectural interest. and the realignment of the boundary wall does not adversely affect its character.
- 7.4.6. An Architectural Heritage Impact Assessment has been submitted at application stage, as well as an addendum as a response to the Additional Information request. In relation to the impact on No. 1 Annesley Park, the assessment concludes that the proposal to realign the boundary wall to No. 1 Annesley Park will involve negligible loss of historic fabric in the form of lean-to-shed and what remains of its original boundary walls. It is stated that the replacement wall will be built using higher quality materials and detailing. In relation to the surrounding protected structures it is concluded that these are unaffected by the proposals.
- 7.4.7. While I note the boundary wall of No. 1 Annesley Park lies within the curtilage of the Protected Structure, I do not consider that the realignment of the boundary wall will have an adverse impact on the historical significance of the dwelling, and I concur with the assessment in the Impact Assessment that the proposal would result in negligible loss of historic fabric. The lean-to-shed is a modern construction and there is no objection to the loss of same.
- 7.4.8. Having regard to the separation distance from the proposed dwellings to the surrounding Protected Structures, and having regard to the limited visibility of the proposed dwellings from the surrounding streets, it is concluded that the impact on surrounding Protected Structures will be minimal.

7.5. **Transport**

- 7.5.1. The access to the proposed development is via the existing site entrance to the north of No. 1 Annesley Park which is proposed to be widened by way of the demolition of the lean-to shed to the rear of No. 1 Annesley Park and the realignment of the boundary wall. This is to create a DMURS compliant shared surface 4.8m in width.
- 7.5.2. A number of the Third Party Appellants have raised the issue of road safety resulting from the use of this access by increased volumes of traffic. The potential for additional parking pressure as a result of the proposed development is also cited.
- 7.5.3. The First Party states that the proposed development would have an unnoticeable impact on established local traffic conditions. A Transportation Assessment Report was submitted at application stage and I have had regard to same. This concludes that there is a negligible traffic impact associated with the proposed development and it can be accommodated on the surrounding road network.
- 7.5.4. I do not consider that the additional vehicle movements would compromise road safety. Traffic on Annesley Road is relatively slow moving due, in part, to parking on both sides of the road. The proposal will only generate limited vehicle movements, given the number of units proposed. There are adequate sightlines in both directions along Annesley Road. Each of the units is allocated a parking space, and the site is accessible to public transport. I note also the surrounding roads are pay and display parking, and the proposed units will not be eligible for a parking permit. As such there is unlikely to be long-term parking on the surrounding streets as a result of the development.

7.6. Residential Standards

- 7.6.1. The proposal meets relevant standards save for a slight shortfall in private amenity space provision, having regard to the number of bedspaces proposed. However, regard is had to the inner suburban location, and the need to make the most efficient use of existing land and it is considered that each of the units has a sufficient amount of rear amenity space.
- 7.6.2. Section 16.10.3 states that, in new residential developments, 10% of the site area shall be reserved as public open space provision, or where this is not feasible an *in lieu* contribution shall be provided. In this instance, I consider that an *in lieu* contribution is more appropriate, given the constrained nature of the site. I note the existing Dublin City Council Development Contribution Scheme allows for the

planning authority to determine a financial contribution in lieu of the open space requirement.

7.7. Flood Risk/Drainage

- 7.7.1. The application is accompanied by a Flood Risk Assessment. This concludes that the site is not at risk from fluvial, tidal or groundwater flooding. The site is therefore considered to be in Flood Zone C and a justification test is not required. The proposal is not considered to increase the risk of off-side flooding by way of surface water run-off.
- 7.7.2. Mapping data accessed on Floodinfo.ie (accessed 03/10/2019) indicates that the site lies outside any identified flood risk area.
- 7.7.3. The applicant's response to Further Information addresses the volume of surface water run-off, pre and post development. It is calculated that the existing surface water outflow varies between 0 and 130 litres per second. Post development, surface water run-off will vary between 0 and a max of 2 litres per second.
- 7.7.4. I note the level of hard standing on site at present and the SUDs proposals included as part of this application. The revised SUDs proposals are to use permeable paving and attenuate the rain water within the permeable sub-base of the access roadway, and discharge it at a controlled rate to the public sewer, as outlined in the Further Information request. However, it is noted that the drawings do not reflect these revisions and the planning authority imposed a condition requesting revised drawings. I consider that this condition should be re-imposed. Subject to this condition, the levels of surface water run-off will decrease post-development, and as a result, flood risk arising from surface water run-off is reduced in line with Guidance.
- 7.7.5. In relation to foul drainage it is proposed to drain to the existing 300mm combined sewer which runs below Annesley Park road via a new 225mm foul sewer line installed under Dunville Close, given that the existing foul line was found to be in poor condition and of insufficient diameter. No objections to same were raised by the planning authority.
- 7.7.6. In conclusion the proposal will not be at risk of flooding and will not increase flood risk elsewhere. It is considered that the surface water and foul drainage proposals are acceptable.

7.8. Ecology

- 7.8.1. The issue of bats has been raised by the Third Party Appellants and the lack of a bat survey is noted. I consider that the potential for the structures on site for bat roosting to be very limited. The structures on site are relatively modern structures which are in relatively good repair, and appear to only have been recently vacated. There is limited roosting potential in the eaves and the external walls appear to be relatively intact, with little opportunities for roosting.
- 7.8.2. The site has limited potential for ecology, in my view, given its former commercial use and the grassland nature of the surrounding open space, which appears to be relatively well maintained.

7.9. Appropriate Assessment

- 7.9.1. The application is accompanied by a Screening Report for Appropriate Assessment (dated September 2018). This report concludes that no significant effects are likely to arise, either alone or in combination with other plans or projects that will result in significant effects to the integrity of the Natura 2000 network.

Stage 1 Screening

- 7.9.2. Stage 1 is concerned with determining whether a described development, not being a development directly connected with or necessary to the management of a European site, in itself or in-combination with other described projects or plans, is likely to have significant effects on any European site, in view of the site's conservation objectives.
- 7.9.3. The site is neither in nor near to a Natura 2000 site. The closest SPA to the site is South Dublin Bay and River Tolka Estuary SPA (site code 004024) which is 3.4km to the east of the site. The closest SAC is the South Dublin Bay SAC (000210) which is 3.3km to the east of the site. There is no obvious direct pathway from the appeal site to the above sites, nor to any other Natura 2000 sites beyond.
- 7.9.4. Having regard to the nature and scale of the proposed development, 20 residential units, the nature of the receiving environment, a serviced inner-urban location, and the proximity to the nearest European Sites and the lack of an apparent pathway to same, it is reasonable to conclude on the basis of the information available on the file, which I consider adequate in order to issue a screening determination, that the

development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European sites, or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the zoning objective for the site, the pattern of development in the vicinity and the policies of the current Dublin City Development Plan 2016-2022, it is considered that the proposed development would not seriously injure the residential or visual amenity of the area, would not detract from the character or setting of the Protected Structure on the appeal site, nor any adjacent Protected Structures, and would not have a material impact on the surrounding road network nor would it lead to the creation of a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 25th day of January 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 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 Prior to the commencement of development, details of the materials, colours and textures of all external finishes including samples, shall be submitted to and agreed in writing by the Planning Authority.

Reason: In the interests of orderly development and the visual amenities of the area.

- 3 Notwithstanding the provisions of Schedule 2, Part 1 of the Planning and Development Regulations 2001 (as amended), no extensions, garages, stores, offices or similar structures, shall be erected without the prior grant of planning permission.

Reason: In the interests of residential and visual amenity and in order to ensure sufficient private open space be retained for the new dwelling.

- 4 Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

- 5 Proposals for a house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs, and house numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility

- 6 The following requirements of the Engineering Department – Drainage Division shall be strictly adhered to:

a) The developer shall comply with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0 (available from www.dublincity.ie Forms and Downloads).

b) The drainage for the proposed development shall be designed on a

completely separate foul and surface water system with a combined final connection discharging into Irish Water's combined sewer system.

c) The development shall incorporate Sustainable Drainage Systems in the management of surface water, with a minimum requirement of a 2 stages treatment approach. Full details of these shall be agreed in writing with Drainage Division prior to commencement of construction.

d) The outfall surface water manhole from this development must be constructed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.. All private drainage such as, downpipes, gullies, manholes, armstrong junctions, etc. are to be located within the final site boundary. Private drains should not pass through property they do not serve.

e) The applicant is requested to revised the proposal for the management of surface water as indicated on the drawings submitted (O012-TEC-00-00-DR-C-1002). The developer shall submit two revised copies of a detailed site plan to the Drainage Division for written approval. These plans shall be submitted not later than the submission of the commencement notice for the development. The revised plans should address: i. The Surface Water arrangement in the drawing is not matching with what was proposed in the response to the further information request (the oversized attenuation pipes). ii. It is not clear if Road gullies will be fitted on the private lane or if already removed from the proposal. iii. The proposed manhole with the Vortex flow control device is not showing in the proposed drainage drawing. iv. The Surface Water Final outfall manhole is to be located within the site boundary (it is not permitted to locate it at Dunville Close).

Reason: In the interest of the proper planning and development of the area.

- 7 The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise

management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

- 8 The applicant shall put in place an agreement with regard to collection of waste with a registered waste contractor. All waste collection is to be carried out internally within the confines of the development.

Reason: To protect the amenities of the area.

- 9 Prior to the commencement of development , the applicant shall provide the following information to the Planning Authority for their written agreement:

i. Revised landscaping proposals that provide additional high soft landscaping treatment to the perimeter of the site to provide a more suitable buffer between the development site and the adjoining Protected Structures

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential amenity.

- 10 The following requirements shall be complied with:

(i) A conservation expert with proven and appropriate expertise shall be employed to design, manage, monitor and implement the works to the Protected Structure at No. 1 Annesley Park and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.

(ii) All works to the protected structure shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection

Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of the Environment, Heritage and Local Government. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off-site shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

(iii) All existing original features, in the vicinity of the works shall be protected during the course of the refurbishment works.

Reason: In order to preserve the setting of the Protected Structure at No. 1 Annesley Park.

11 The following requirements of the Transportation Planning Division shall be strictly adhered to:

a) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, including provision of raised platform, shall be at the expense of the developer and shall be agreed in writing prior to commencement of development.

b) At the vehicular access/exit point to the development, the public footpath shall be continued at a raised level across the site entrance and exit, but shall be ramped and dropped as necessary (e.g. 32mm kerb over carriageway) to facilitate car-entry/exit. Measures shall be implemented, including contrasting materials, signing, road marking, etc. to ensure that vehicles entering/leaving the development are aware that pedestrians/cyclists have priority across the site entrance and that vehicles must yield right-of-way.

c) If it is intended that the new access road is to be taken in charge, all materials to be used in the proposed new road, footpath, parking areas shall be agreed in writing with the Roads Maintenance Division of Dublin City Council prior to commencement of development.

d) The road layout and junction arrangements throughout the proposal are to be designed in accordance with the Design Manual for Urban Roads and Streets (DMURS) in the context of ensuring speeds of 30km per hour

throughout the residential development.

e) Prior to commencement of development, and on appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, noise management measures and off-site disposal of construction/demolition waste including vermin control measures during construction.

f) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: In order to ensure a satisfactory standard of development.

12 The following requirements of the Environmental Health Department shall be strictly adhered to:

a) The site and building works required to implement the development shall only be carried out between the hours of: Mondays to Fridays - 7.00am to 6.00pm. Saturday - 8.00 a.m. to 2.00pm. Sundays and Public Holidays - No activity on site. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from Dublin City Council. Such approval may be given subject to conditions pertaining to the particular circumstances being set by Dublin City Council.

b) Prior to the demolition of any structures on site an asbestos survey of the buildings to be demolished must be carried out. The proposed methodology for the removal of asbestos materials and monitoring of air quality must be submitted for the written agreement of the Air Quality Monitoring and Noise Control Unit.

c) The construction of the development shall be managed in accordance with a Construction Management Plan prepared on behalf of the developer and contractor. This plan shall be developed with reference to the Code of Practice for Construction and Demolition produced by the Air Quality Monitoring and Noise Control Unit of Dublin City Council. This plan and all associated documentation should be available on site at all times and must

be accessible on request, by Dublin City Council.

d) During the construction and demolition phases, the proposed development shall also comply with British Standard 5228 - Noise Control on Construction and open sites Part 1 and Part 2. Code of practice for basic information and procedures for noise control.

e) Noise levels from the proposed development should not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place.

Reason: In order to ensure a satisfactory standard of development, in the interests of residential amenity.

- 13 Prior to commencement of development, the applicant shall enter into an agreement with the Planning Authority under Section 96 of the Planning & Development Act 2000 (as substituted by Section 3 of the Planning & Development Amendment Act 2002) in relation to the provision of social and affordable housing, in accordance with the Planning Authority's Housing Strategy unless the applicant has applied for and been granted an Exemption Certificate under Section 97 of the Planning & Development Act 2000 (as amended).

Reason: To comply with the requirements of Part V of the Planning & Development Act 2000 (as amended).

- 14 Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit or a bond of an insurance company/bank (a) to secure the satisfactory maintenance, completion and any reinstatement of services/infrastructure currently in the charge of Dublin City Council, including roads, open spaces, car parking spaces, public lighting, sewers and drains, or (b) to secure the satisfactory completion of services until taking in charge by a Management Company or by the Local Authority of roads, footpaths, open spaces, street lighting, sewers and drains to the standard required by Dublin City Council. The

form and amount of the security shall be as agreed between the planning authority and the developer, coupled with an agreement empowering the planning authority to apply such security or part thereof. In the event that land to be used as open space is taken in charge, the title of any such land must be transferred to Dublin City Council at the time of taking in charge.

Reason: To achieve a satisfactory completion of the development.

- 15 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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.

Rónán O'Connor
Planning Inspector

03rd October 2019

