



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304197-19

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<b>Development</b>	Retain free standing timber structure & retain change of use from retail to dog day care use. Permission for change of use of existing ground floor retail unit from Retail to Dog Grooming parlour
<b>Location</b>	95, Rosemount Avenue, Artane, Dublin 5
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	4224/18
<b>Applicant(s)</b>	Moulin Pooch Ltd.
<b>Type of Application</b>	Retention and permission.
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Bruno Herbots & Flora O'Mahony and the 'Residents of Rosemount Avenue and Brookwood Avenue'
<b>Observer(s)</b>	None

**Date of Site Inspection**

23<sup>rd</sup> August 2019

**Inspector**

Niall Haverty

## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 519 sq m, is located at No. 95 Rosemount Avenue, Artane, Dublin 5 and comprises a two storey end of terrace structure and its associated yard. The site is part of a shopping parade located within a residential area, which features a number of convenience retail, takeaway and hair salon type uses at ground floor, with residential use overhead. A pedestrian service lane is located to the north (i.e. side) of the site, with a wider vehicular service lane to the west (i.e. rear). Gates are in place to prevent general access to these lanes.
- 1.2. A two storey dwelling (No. 97) is located to the north of the site, with dwellings located on the opposite side of Rosemount Avenue. The rear gardens of dwellings on Brookwood Avenue also back onto the lane to the rear of the site.

## 2.0 Proposed Development

- 2.1. The development, as described in the public notices consists of:
  - Retention of a single storey free-standing timber structure and retention of a change of use from retail to dog day care use to the rear of No. 95 Rosemount Avenue.
  - Permission for a change of use of an existing ground floor retail unit to the front of No. 95 Rosemount Avenue from retail to dog grooming parlour and for associated signage.
  - All associated site works.
- 2.2. A Planning Report submitted with the application states that the application has been prepared to regularise issues identified in an Enforcement Notice (Ref. E0768/18). It also states that the dog grooming parlour currently being operated from the rear of No. 93 Rosemount Avenue will be relocated to the vacant unit at the front of No. 95 Rosemount Avenue, should planning permission be granted.
- 2.3. The applicant's Planning Report states that 5 No. dogs avail of the day care service and that there is no overnight service. Opening hours are stated to be 9am – 6pm Monday to Friday, with grooming from 9am – 6pm Monday to Saturday. It also states that the side access lane will not be used, should permission be granted.

2.4. Additional information regarding the operation of the dog grooming and dog day care facilities was submitted to the Planning Authority in response to a request for additional information. I note that there are a number of apparent contradictions between the information submitted with the application and the additional information that was subsequently submitted.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

3.1.1. The Planning Authority decided to grant permission and retention permission and the following summarised conditions are noted:

- **C2:** Development contribution.
- **C3:** Permission is granted for a period of three years. Use shall cease unless a further permission has been granted.
- **C4:** Restrictions on operation of dog grooming service.
- **C5:** Restrictions on operation of dog day care service.
- **C6:** Dog day care building shall be relocated and rotated 90 degrees.
- **C7:** Side passageway shall not be used for access.
- **C8:** Developer shall have a contract with a licenced waste collection company for collection of animal waste. Refuse bins shall be located as indicated on the site layout plan.

#### 3.2. **Planning Officer's Reports**

3.2.1. The Planning Officer's reports can be summarised as follows:

- The Development Plan does not mention dog day care or dog grooming as a use class. The use might be analogous to veterinary surgery given it involves animals.
- Z3 zoning allows for light industry, which implies that such areas can absorb some degree of disruption, however this would be taken on its individual merits.

- The timber building is not excessive in size and its retention would not be unreasonable.
- There is contradictory information regarding dog numbers and days of operation in the further information submitted. The Planning Authority considers there is sufficient information to make an informed decision.
- While the applicant states that dogs for the day care facility will be brought through the dog grooming facility rather than using the lane, the Planning Authority is not wholly satisfied that the more convenient lane option will not become the desired route. It is for the applicant to police this access.
- With regard to parking and access, it is considered that the volume of customers would not be excessive and adequate parking is available for drop off and pick up.
- The critical issue is the control of noise. While the applicant may employ a 'no barker' policy, this can only apply to persistent 'no reason' barking. Dogs being exercised in the yard with other dogs will bark. It would be preferable for the timber building to be orientated with its long axis parallel to the side boundary along the lane to create a buffer. This should be required to be carried out as part of a grant of permission.
- The internal space is small relative to the outdoor area and no more than 5 dogs should be accommodated in the day care at any one time. This will also reduce potential noise generation.
- There is a balance to consider between scale and reasonable level of noise vs residential amenity. Were 5 dogs to be cared for on site, there is a question as to whether this would generate more noise than a private individual in the area owning 5 dogs.
- It is reasonable to restrict the use of the outdoor area to no more than 50% of the total hours the facility is open, with no use of the outdoor area before 10am or after 5pm.
- The location of the facility in a neighbourhood centre is more reasonable than were it to be in solely residential area, albeit that it is adjacent to dwellings. The Planning Authority recognises that dog grooming and day care is a use which has

value to the community given modern work requirements. It is a use which is not covered by the current zoning provisions but being located in a Z3 area is preferable to other locations in the vicinity.

- The dog grooming aspect is reasonable in scale and should have no particular undue impact on residential amenities being fully indoors and accessed from the street.
- The new signage is in scale with the fascia and is acceptable.
- While there might be a case that the use might have an undue impact on residential amenity due to noise generation, it is considered that the use is not unreasonable subject to controls in terms of scale and operation. It is also considered reasonable to grant a temporary 3-year permission to allow the impact of the use to be considered at that time.
- No Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects on a European site.
- The proposed development and development proposed for retention is considered consistent with the Development Plan and with the proper planning and development of the area.

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

3.3.1. **Drainage Division:** No objection, subject to conditions.

### **3.4. Prescribed Bodies**

3.4.1. None.

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

3.5.1. In excess of 30 No. third party observations were made. The majority of the observations were in support of the planning application. The issues raised in the third party observations objecting to the development were generally as per the third

party appeal. I note that petitions were submitted by both the applicant and the observers opposing the development.

## **4.0 Planning History**

### **4.1. Appeal Site**

- 4.1.1. **Ref. E0768/18:** Enforcement case relating to the dog day care and dog grooming use and the erection of the timber structure.

### **4.2. Surrounding Area**

- 4.2.1. I am not aware of any recent relevant planning history in the surrounding area.

## **5.0 Policy Context**

### **5.1. Dublin City Development Plan 2016-2022**

- 5.1.1. The appeal site is zoned Z3, 'Neighbourhood Centre'. This zoning objective seeks "to provide for and improve neighbourhood facilities". I note that neither dog grooming nor dog day care are uses which are identified as being permissible uses or open for consideration uses under this (or any other) zoning objective. While the uses would appear to be sui generis, I note that 'Veterinary Surgery' is an open for consideration use.

### **5.2. Natural Heritage Designations**

- 5.2.1. The appeal site is not located within or in the immediate vicinity of any sites with a natural heritage designation. The closest such sites are the North Dublin Bay SAC (Site Code 000206), North Bull Island SPA (Site Code 004006) and the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), which are c. 2.4km to the east and south of the appeal site, respectively.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A third party appeal was submitted by Brady Shipman Martin on behalf of Bruno Herbots and Flora O'Mahony, the residents of No. 97 Rosemount Avenue, which is the house to the north of the appeal site. The appeal is also stated as being on behalf of the residents of Rosemount Avenue and Brookwood Avenue, and an appendix and map contained within the appeal lists those residents represented. The issues raised in the appeal can be summarised as follows:

- The location, which is immediately adjacent to an established mature residential area, is entirely and fundamentally unsuitable for a dog day care facility.
- There is no clear demarcation between the two very distinct services being proposed.
- The appellants do not object, in principle, to the use of the ground floor unit to the front of No. 95 for dog grooming services. Their concern and fundamental objection arises in relation to the operation of the dog day care facility and the overlap between the services.
- Planning Authority has failed to protect the residential amenity of the area, despite inaccuracies in the application.
- The applicant has demonstrated disregard for the planning system, which reinforces the likelihood that they have little or no intention of operating the business in an orderly and compliant manner.
- In the Dublin City area only small-scale dog grooming operations take place in suburban areas, with dog day care facilities located in industrial areas.
- Appellants' primary concern relates to the significant ongoing noise disruption and public use of a private laneway for access to and operation of the commercial activity.
- A large outdoor dog day care facility does not fit within the description of Z3 zoned areas set out in the Development Plan It would detract from the residential



character of the area in which the parade of shops is located and designed to serve.

- While a dog grooming service could possibly be considered similar to a veterinary surgery in character, it is fundamentally different to a dog day care facility.
- Signatories to the applicant's petition were only told about the dog grooming, not the dog day care.
- Appellants do not object in principle to the dog grooming use, subject to conditions requiring dogs to be kept inside the shop. Appellants are concerned that an overlap between the two uses could occur.
- The yard to the rear has been used as a waiting area for dogs before and after being groomed. Therefore the appellants object to the grooming proposal.
- There is no assurance that the establishment will meet suitable hygiene standards. Staff facilities are confined.
- Dog Breeding Establishments Act 2010 sets out minimum requirements for kennels. While there is no equivalent for dog day care, this sets a comparable standard.
- The shed has no sound insulation properties. The hard surfaces in the yard and shed amplify noise created.
- The Dog Den facility, c. 600m to the south east is located in an industrial unit, is clean and spacious and of suitable size.
- There is no precedence in the Dublin local authorities for dog day care in residential areas.
- Up to 8 dogs have been noted in the yard at any one time. Appellants are regularly disturbed by barking dogs which have been left unattended.
- Three year temporary permission is meaningless, given that the two businesses have been operating for the past year. There is no trial period required.
- Excessive dog barking disrupts and causes a nuisance which is an offence under the Dog Control Act 1986. Such noise is not only a nuisance, it is a health hazard.

- Proposed development would devalue property in the vicinity by 20 – 25%.
- Laneways to side and rear are being used to walk dogs, resulting in dog fouling and security concerns.
- Appellants are concerned that development could be further expanded to rear, or into No. 93 Rosemount Avenue.
- Hours of operation are unclear. Conflicting information provided by applicant.
- The applicant has separately stated that they employ two or three staff. The company's financial statements state that there is one staff member for the financial period ended 31<sup>st</sup> December 2017. There is no constant supervision for the dog day care dogs. At €20 per dog per day it would not be economically feasible to have even one full time employee to care for five day care dogs.
- A minimum number of staff for each business should be a requirement to ensure minimum supervision.
- The issue of environmental waste is particularly pertinent and it is unclear how the applicant intends to address dog waste. The appellants note that dog fouling is increasingly problematic in the laneway and that the applicant is using the large refuse container to the front of the shop.
- The Planning Authority's condition relating to waste is unclear and inadequate. It does not require segregation of animal waste or daily collection.
- The applicant has constructed two new openings in the wall to the laneway. The laneway should be restored to its original condition and these openings removed.
- Temporary permission is meaningless given that the two businesses are currently operating (unauthorised) and the effects of which are clearly being demonstrated on a daily basis and have been for the past year and more.
- Despite the lack of detail, inconsistencies, and recent enforcement proceedings the Planner has consented for the disruption to continue for a further 3 years. When the applicant returns to re-apply for permission, the Planning Authority is likely to make certain presumptions in favour of the existing development. This condition is inappropriate.

- No noise assessment was undertaken, as requested by the Planning Authority. A video recording of the noise disturbance the residents experience is submitted. The Planner refers to the need for a balance between reasonable noise versus residential amenity. No consideration has been afforded to the residents.
- Condition No. 5 is unenforceable and inadequate to address the extent of disruption, noise etc. There is likely to be a spill over between the dog day care area and the dog grooming areas. Photographs from the applicant's social media account illustrate this.
- No. 95 has been sub-divided without planning permission and applications cannot be considered as this sub-division is unauthorised.
- The dog care is not long established and is not a much needed local service, as an entirely suitable indoor dog day care is provided c. 600m away in the Harmonstown Road industrial facility.
- There are 36 houses within 100m, which is a distance over which persistent barking can easily travel. The number of residents impacted and the level of disruption caused in the area by just 5 dogs is simply unacceptable.
- The yard area is intended as ancillary support area for the shops, and is too small for the needs of a dog day care business.
- The increased activity and open access to the lane means the gardens to many houses are now vulnerable to theft. This sets a very poor precedent for such a location.
- The Planning Authority's condition regarding "no more than five dogs" is unclear. Does it relate to the dog day care or the combined dog day care and grooming facility?

6.1.2. The appeal was accompanied by a number of appendices, including a list of residents represented, enforcement correspondence, letters from a Veterinary Surgeon and a property valuer, financial statements for Moulin Pooch Ltd. and a copy of the appellants' original observation to Dublin City Council.

## 6.2. Applicant Response

6.2.1. The applicant's response to the appeal can be summarised as follows:

- It is noted that the appellant has no objection to the dog grooming and that the issue is focussed around the day care facility.
- If planning permission is granted, the laneway will not be used for customer access.
- Dogs constantly barking outside the Centra store while waiting for their owner is a regular occurrence and is not connected to the applicant's business.
- There are also a large number of dogs in the area. The appellant seems to be associating all barking to the applicant's business.
- No barking policy means that dogs that constantly bark are not taken. On opening the day care, 8 No. dogs per day were taken, which was reduced to 5 to ensure no noise disruption. Applicant lives locally and her husband runs a shop from the same row of shops.
- Dogs will bark at times and there is no way to prevent this, but it is very minimal and manageable with the small number of dogs.
- The three tenants in the apartments above Nos. 93 – 95 Rosemount Avenue are living in the closest proximity to the facility and can view it from their windows. They all made a submission to DCC in favour of the application. There is also a huge amount of support in the community.
- The business is not comparable to the Dog Den. It is on a much smaller scale and the applicant has no intention of expanding it, as it is designed to be a home away from home for beloved pets.
- A petition in support of the application with over 500 signatures was submitted to DCC.
- Grooming appointment system works well to ensure that there are very small windows of time between grooming finishing and owners collecting. Grooming dogs are not mixed with day care dogs.
- Applicant has no intention of ever providing a kennelling service.

- The communal laneway to the rear has never been used by the applicant for dog walking or any other reason. The laneway is only used by residents whose properties back onto it.
- The applicant was not involved with changing the locks to the laneway gate.
- The hours of opening are 09:30 – 18:00 Monday to Saturday for grooming and 08:00 – 18:00 Monday to Friday for day care.
- Staff are employed to cover hours needed. There are times/days when there are no daycare dogs or grooming appointments.
- The applicant is in discussion with various waste disposal companies and will comply with all requirements. The waste from 5 dogs daily is extremely minimal.
- The appellants' reference to 2 No. new openings is not correct. The outside door from the laneway has always been there, the applicant replaced an old wooden door with a new door. The second door created inside of the property was agreed with the landlord.
- Unit 95 has been operating as 2 No. units since 1994 and rates are paid on both units.

6.2.2. The applicant's response was accompanied by letters from a number of local residents, staff members, samples of reviews, a DVD of a dog barking outside the Centra store and a copy of the petition supporting the development.

### 6.3. **Planning Authority Response**

6.3.1. None.

### 6.4. **Observations**

6.4.1. None.

### 6.5. **Further Responses**

6.5.1. None.

## 7.0 Assessment

7.1. I consider that the key planning issues arising in this appeal are as follows:

- Principle of proposed development.
- Residential amenity.
- Use of Laneway.
- Waste.
- Appropriate assessment.

### 7.2. Principle of Proposed Development

7.2.1. The appeal site is located in an area zoned 'Z3' (i.e. Neighbourhood Centre) in the Dublin City Development Plan 2016-2022, where the objective is "to provide for and improve neighbourhood facilities". The surrounding lands along Rosemount Avenue to the front and Brookwood Avenue to the rear are zoned 'Z1', "to protect, provide and improve residential amenity".

7.2.2. Neighbourhood Centres are described in the Development Plan as "areas that provide local facilities such as small convenience shops, hairdressers, hardware etc. within a residential neighbourhood and range from the traditional parade of shops to neighbourhood centres...They can form a focal point for a neighbourhood and provide a limited range of services to the local population within 5 minutes walking distance. Neighbourhood centres provide an essential and sustainable amenity for residential areas and it is important that they should be maintained and strengthened, where necessary".

7.2.3. I note that neither dog grooming nor dog day care are uses which are identified as being permissible uses or open for consideration uses under the 'Z3' zoning objective (or under any other zoning objective). The Development Plan states that uses not listed under the permissible or open for consideration categories will be deemed not to be permissible uses in principle in certain zones. These include Z1 zones, but not Z3 zones.

7.2.4. I note that 'Veterinary Surgery' is an open for consideration use under the Z3 zoning objective. It could be considered that dog grooming is a similar type of use, in that it

involves dogs visiting the premises for relatively short periods, generally by appointment, with no outdoor element to the use. I therefore consider the dog grooming use to be open for consideration on this Z3 zoned site.

- 7.2.5. With regard to the dog day care use for which retention permission is sought, such a use clearly gives rise to a greater potential for negative impacts on the amenities of surrounding properties, particularly due to noise. However, I would accept that, in principle, such a facility can provide a useful service to the local residential population and as such I consider the use to be broadly compatible with the Z3 'Neighbourhood Centre' zoning objective.
- 7.2.6. I therefore consider the dog grooming and dog day care uses for which permission and retention permission, respectively, are sought to be acceptable in principle, subject to consideration of the impacts on residential amenity and the other issues identified in Section 7.1 above.

### 7.3. Residential Amenity

- 7.3.1. As noted above, while the appeal site is located within a parade of shops zoned 'Z3', 'Neighbourhood Centre', the surrounding area is zoned Z1 and is predominantly in residential use. The protection of residential amenity is therefore the key planning issue arising, in my opinion.
- 7.3.2. There are two aspects to the Moulin Pooch development, a dog grooming facility and a dog day care facility. Both of these facilities are currently in operation, and the applicant is seeking permission to relocate the dog grooming facility into a vacant retail unit, fronting onto Rosemount Avenue, and retention permission for the dog day care facility to the rear of this unit. On the date of my site inspection there was only one dog present in the dog day care facility and one dog in the grooming facility. There was no barking from these two dogs or any other noise emissions, however I accept that this may not necessarily be reflective of the situation when there are more dogs present at the site.
- 7.3.3. I note that the appellants' concerns are primarily related to the dog day care facility, rather than the dog grooming facility, except where there is potential for an overlap between the two operations. Having regard to the nature of the dog grooming operation, with dogs being present for relatively short periods, by appointment, and

being groomed by staff in an indoor environment, I do not consider that this use is likely to result in any significant impact on residential amenity. Such a conclusion, however, would be dependent on the imposition of suitable conditions. These conditions should include restrictions on the hours of operation and the number of dogs present on the site at any one time, to ensure that dogs are housed inside the premises, and to ensure that there is no overlap with the dog day care facility. I note that the proposed ground floor plan, submitted by the applicant in response to the request for further information, shows a number of dog crates located towards the rear of the premises, and therefore there should be no need for dogs awaiting grooming or collection to be outside.

- 7.3.4. The dog day care facility, for which retention permission is sought, comprises a yard area (c. 49 sq m) with artificial grass and play features and a timber shed type structure (c. 15 sq m) surrounded by blockwork walls to which artificial grass has been attached. The interior of the shed does not appear to have any soundproofing or insulation and it contains a sofa, bunkbed and dog beds. There are a number of items of childrens play apparatus in the yard area, which appears to be the 'agility apparatus area' referred to on the drawings submitted.
- 7.3.5. While there appears to be some confusion in the information provided by the applicant regarding hours of operation, a critical fact, in my opinion, is that there is no current or proposed overnight kennelling service, which I consider would be unacceptable in this residential environment. It is also of note that the dog day care facility does not operate at weekends, and that both facilities close at 18:00, all of which I consider to be reasonable in the context of providing a balance between a long-established Z3 commercial area and an adjoining and equally long-established Z1 residential area.
- 7.3.6. The number of dogs that it is proposed to accommodate within the dog day care is limited to five. It would not be uncommon in suburban areas such as that surrounding the appeal site for individual households to have one or more dogs, and I noted a number of people walking multiple dogs in the vicinity on my site inspection. I therefore see no fundamental reason why a well-run small-scale dog day care facility, which provides a useful service to the surrounding residential community, could not operate in a Neighbourhood Centre.



- 7.3.7. I note in this regard that both the appellants and the applicant have submitted petitions signed by large numbers of people, many of whom live in the area, opposing and supporting the development, respectively. Numerous local residents also made submissions to the Planning Authority opposing the development, while others, including the occupants of the apartments above the parade of shops, made submissions in support of the development.
- 7.3.8. No noise assessment report was submitted with the application, or in response to the appeal. I note the applicant's statement that they have a 'no barkers' policy, however the effectiveness of such a policy is questionable given that dogs are liable to bark for a myriad of reasons. Notwithstanding this, certain dogs are likely to be more prone to barking than others, and in circumstances where dog day care is by appointment, the applicant will be in a position to control this, to some degree. I note that the Planning Authority considered that rotating the timber shed and placing it along the boundary with the laneway would provide a buffer between the appeal site and the appellants dwelling, and also included conditions restricting the amount of time that dogs can be outside. While I would agree with the Planning Authority's condition requiring that the shed be repositioned, I consider that a condition limiting the percentage of time that the outdoor area can be used would be difficult to enforce.
- 7.3.9. Having regard to the strength of local feeling exhibited in the two opposing petitions, and having considered the issues raised in the appeal and the applicant's response, I consider the Planning Authority's decision to impose a temporary 3 year permission to be a reasonable precaution in the circumstances. While the development has been operating for a period without the benefit of planning permission, it has been operating in a somewhat haphazard arrangement, with access from the service laneway and no conditions in place to regulate issues such as capacity and hours of operation. The granting of a temporary 3 year permission for the combined dog grooming and dog day care facility, with appropriate arrangements for access, intensity of operation, hours of operation etc. will provide an opportunity in due course for the Planning Authority to revisit the development and review its impact on the residential amenities of the area in light of circumstances then prevailing.

#### **7.4. Use of Laneway**

- 7.4.1. There is a pedestrian laneway located to the side (north) and a wider vehicular laneway to the rear (west) of the appeal site. These laneways connect to a wider network of laneways and are gated. The appellants object to the use of the laneway to access the dog day care and dog grooming businesses, however the applicant states that the laneways will not be used for access purposes, should permission and retention permission be granted. On the date of my site inspection the pedestrian laneway adjoining the appeal site was locked, with a notice stating 'residents only'. A notice was also affixed to the window of No. 95 Rosemount Avenue requesting Moulin Pooch customers to enter through that premises, and not to use the lane for access.
- 7.4.2. I would agree with the appellants that the use of a narrow service laneway for customer access is problematic, having regard to the adjoining residential use. However, given the applicant's undertaking not to use the laneway for customer access, I consider that this issue could be addressed by means of a suitable condition, should the Board be minded to grant permission.

#### **7.5. Waste**

- 7.5.1. With regard to the issue of animal waste storage and collection, I note the Ground Floor Plans submitted to the Planning Authority in response to the request for further information which indicate 4 No. wheelie bins in a designated refuse area within the yard area between the proposed dog grooming facility and the existing dog day care facility. I also note that the southern corner of the yard, to the side of the timber structure, is designated as a 'toilet area' on the drawings. Given that dogs are loose within the yard, it is unclear how the use of this toilet area would be enforced by the applicant.
- 7.5.2. Noting that dogs in the grooming facility are likely to be present for a relatively short period, I do not consider it likely that they will generate a significant volume of dog waste. Likewise, with regard to the dog day care facility, I do not consider that the small number of dogs to be accommodated are likely to result in the generation of a significant volume of waste. Notwithstanding this, the animal waste is likely to be malodorous in nature, with the potential to attract vermin.

7.5.3. On my site inspection I noted the presence of a number of commercial waste and recycling bins to the front of the parade of shops, but it is not clear which businesses these belong to. I note that the Planning Authority included a condition requiring the developer to have a contract with a licensed waste collection company and to store the refuse bins as indicated on the site layout plan and not in the laneway. Having regard to the scale and nature of the development, and subject to the imposition of a similar condition, I do not consider that the issue of waste is likely to result in any significant impacts to residential amenity, public health or the environment.

## **7.6. Appropriate Assessment**

7.6.1. The appeal site is not located within or in the immediate vicinity of any designated sites. The closest such sites are the North Dublin Bay SAC (Site Code 000206), North Bull Island SPA (Site Code 004006) and the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), which are c. 2.4km to the east and south of the appeal site, respectively.

7.6.2. Having regard to the nature and relatively small scale of the proposed development, the location of the site within a serviced urban area, and the distance from the nearest European sites, I consider that no Appropriate Assessment issues arise, and that the proposed development would not be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

## **8.0 Recommendation**

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

## **9.0 Reasons and Considerations**

9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, it is considered that subject to compliance with the conditions set out below, the development for which permission and retention permission is sought would not seriously injure the residential or visual amenities of the area or property in the

vicinity, would be acceptable in terms of traffic impact and would 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 19<sup>th</sup> day of February 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. The use of the premises as a dog day care and dog grooming facility shall cease on or before the expiration of a period of three years from the date of this order, unless before the end of that period, permission for the continuance of the use beyond that date shall have been granted.

**Reason:** To enable the effect of the development on the amenities of the area to be reviewed having regard to the circumstances then prevailing.

3. The timber shed-style structure in the dog day care area shall be rotated 90 degrees and relocated, such that its long axis runs parallel to the existing boundary wall with the laneway. Works to carry out this requirement shall be undertaken within three months from the date of this order.

**Reason:** In the interests of residential amenity.

4. The existing laneways to the side (north) and rear (west) of the site shall not be used for access to either the dog grooming or dog day care facilities. All access shall be via the front of the building from Rosemount Avenue.

**Reason:** In order to safeguard the residential amenities of the area.

5. The dog grooming use shall comply with the following requirements:

- (a) The hours of operation shall be between 09:30 and 18:00 Mondays to Saturdays. It shall not operate on Sundays or public holidays.
- (b) Dog grooming shall be by appointment only and no more than five dogs shall be present on the dog grooming premises at any one time.
- (c) No dogs attending for dog grooming shall be allowed to access the part of the site used for dog day care.
- (d) No dogs shall be accommodated on the site overnight.

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

6. The dog day care use shall comply with the following requirements:

- (a) The hours of operation shall be between 08:00 and 18:00 Mondays to Fridays. It shall not operate on weekends or public holidays.
- (b) Dog day care shall be by appointment only and no more than five dogs shall be present on the dog day care premises at any one time.
- (c) No dogs shall be accommodated on the site overnight.
- (d) The dog day care facility shall be ancillary to the associated dog grooming facility and shall not be operated independently. It shall cease operation should the associated dog grooming facility cease operation.

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

7. (a) Receptacles for waste shall be provided in the location indicated on the ground floor plans submitted to the planning authority on the 19<sup>th</sup> day of February 2019 and no waste receptacles shall be placed or stored between the front of the building and the road, or in the laneways to the side (north) and rear (west) of the site.

- (b) The developer shall enter into a contract with a waste collection company that is suitably licenced and qualified for the collection of animal waste.

**Reason:** In the interest of public health and the visual amenities of the area.

8. 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.

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

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

10. 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.

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Niall Haverty  
Senior Planning Inspector

10<sup>th</sup> September 2019