



An
Bord
Pleanála

Inspector's Report ABP-304482-19

Development	Demolition of Garages / sheds and the construction of 2no. Houses
Location	Ardpatrick Road, Ashtown, Dublin 7.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3726/18
Applicant	Anthony Dwyer
Type of Application	Permission
Planning Authority Decision	Granted, with Conditions.
Type of Appeal	4no. Third Party's
Appellants	Pauline Gleeson & Anthony Cleary & Others David Kennedy & Others Conor O'Mahony Eimer & Tony Mortimor
Observer(s)	Joan O'Connor & Others Cass residents Association Anthony Dwyer

Date of Site Inspection

30th July & 28th August 2019

Inspector

L. W. Howard

1.0 Site Location and Description

- 1.1. The application site, triangular in shape, with a stated area of c.939m², is located within the established residential neighbourhood of Ashtown, Dublin7 (see series of 'location mapping' attached).
- 1.2. Specifically, the site, backlands in character, is located to the rear of the rows of 2-storey houses fronting onto Ardpatrick Road, Skreen Road and Croaghpatrick Road respectively.
- 1.3. The application site is accessed by way of an existing gated c.29m long laneway off Ardpatrick Road, between houses / properties No.10 and 12 Ardpatrick Road. At the entrance off Ardpatrick Road, the laneway is stated as c.3.7m wide. The laneway then widens to a stated c.4.2m at the entrance opening out onto the application site.
- 1.4. Movement from Ardpatrick Road through the access laneway onto the application site is restricted by 3no. locked security gates. One is at the Ardpatrick Road frontage, the second is approximately halfway up the laneway, and the third is on the application site's southwestern boundary, at the entrance opening onto the site (ie. 1no. locked gate is on the site, whilst the other 2no. gates are off site along the access laneway).
- 1.5. At the northeastern end of the laneway, at the entrance onto the application site, a narrow laneway (c.1.0m) extends either side to the northwest and southeast respectively, enabling 'service' access to the rear gardens of the houses fronting onto Ardpatrick Road.
- 1.6. At the time of physical inspection the application site is unkept and overgrown, indicative of no active usage for several years. Several garages and small sheds exist. Historically, these appear to have been used for storage purposes.

2.0 Proposed Development

2.1. Proposed development comprises –

- demolition of the existing garages / sheds,
- construction of 2no. 4-bedroom 2-storey detached houses, each with 1no. car parking space, and
- site access via existing laneway off Ardpatrick Road.

2.2. Detailed clarification regarding the substance, composition and spatial arrangement of the proposed development on the application site, is provided by –

- the applicant /1st party as part of the planning application documentation and mapping / drawings (received initially by the Planning Authority dated – 15/08/2018, and subsequently as ‘Further Information’ (F.I.) dated – 27/03/2019), and subsequently in the applicant’s / 1st party ‘Response Submission’ to the 3rd Party Appeals, received by the Board dated 17/06/2019 and 21/06/2019 respectively, and
- the Planning Authority in the Deputy Planning Officers ‘planning reports’ dated 09/10/2018 and 23/04/2019 respectively.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Decision to grant planning permission, subject to 13no. Conditions

3.1.2. Having regard to all of the 3rd party grounds of appeal and the Observer Submissions, the following are considered noteworthy :

C3 specifications regarding boundary treatments, to be completed prior to occupation of the dwellinghouses permitted.

Reason : to safeguard the visual and residential amenities of adjoining residents.

C4 requirements for the trees designated for retention as part of the proposed development.

Reason : in the interests of amenity, ecology and sustainable development.

C6 requirements for compliance with the requirements of the City Transportation Planning Division.

Reason : to ensure a satisfactory standard of development.

C7 specifications regarding days and hours of 'site and building works'.

Reason : to safeguard the amenities of adjoining residents.

C8 compliance with specified noise control standards.

Reason : to ensure a satisfactory Standard of Development, and to safeguard local residential amenity.

C9 mitigation of negative impact of site development and construction works on the local adjoining road / street network.

Reason : to safeguard the amenities of adjoining residents

C10 compliance with the requirements set out in the 'Codes of Practice', of each of the 'Drainage Division', the 'Transportation Planning Division', and the 'Noise and Air Pollution Section'.

Reason : to ensure a satisfactory standard of development.

C13 compliance with the requirements of 'Irish Water'.

Reason : in the interests of orderly development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The key planning issues considered as follows –

Zoning Objective

- Site designated with the ‘Z1’ Zoning Objective, which seeks “to protect, provide and improve residential amenities”.
- Residential land use is ‘permissible’ on lands zoned ‘Z1’.
- Section 14.8.1 of City Development Plan 2016-2022 sets out the vision for the residential development of ‘Z1’ zoned lands as –
 “where a wide range of accommodation is available within sustainable communities where residents are within easy reach of services, open spaces and facilities”.

Site Development Standards

- Section 16.4 – ‘Density Standards’, of the City Development Plan 2016-2022 provides a qualitative framework for determining the optimum sustainable density for the residential development of a site.
- Site Density – 2no. houses proposed on 939m² property. Therefore, site density is 21units / ha
- Site Coverage and Plot Ratio –

	<i>City Development Plan 2016-2022 Standards for ‘Z1’ zoned lands within the ‘Outer City’</i>	<i>Proposed Development</i>
<i>Site Coverage</i>	40% – 60%	14%
<i>Plot Ratio</i>	0.5 – 2.0	0.29

Layout and Design

- The application site is bound by the rear garden boundaries of houses fronting onto Ardpatrick Road, Screen Road and Croaghpatrick Road. Two (2no.) 4-bed dwellinghouses are proposed, facing each other, and separated by a 7.0m wide central access road / paved courtyard.
- House Type A – c.138m²
House Type B – c.134m²
- Whilst having a slight variance, both ‘House Types’ comprise –
 - at ground level – a living room
 - a kitchen / diningroom
 - utility room

- storage, &
 - a wc.
 - at 1st floor level
 - 4no. bedrooms (1no. en-suite)
 - a bathroom
- Commonalities include –
 - a brick finish at ground floor level
 - a render finish at 1st floor level
 - c.7.8m height, with hipped roofs, similar to existing surrounding houses.
- *House Type 'A'*
 - c.7m from party boundary with properties onto Screen Road, and c.3.3m and c.12m to party boundaries with properties onto Ardpatrick Road and Croaghpatrick Road respectively.
 - no windows on the gable ends
 - 1st floor rear bedroom windows located c.35m from existing rear building line of the houses fronting onto Screen Road
- *House Type 'B'*
 - c.3.1m from party boundary with properties onto Ardpatrick Road, and c.1.0m to party boundary with properties onto Croaghpatrick Road
 - windows on 1st floor gable end are obscured glazing, serving bathroom and stairs
 - 1st floor rear window serving bedroom-2 is c.4.0m from the party boundary with No.15 Croaghpatrick Road.
Concern that the proximity of this window to the boundary, could result in “undue overshadowing”
- Note c.9.0m separation between the front building lines of the proposed houses, and a 1.0m wide privacy strip to the front of each house
- DoEHLG report – “Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)”, sets out Standards for ‘room sizes’ for new houses.
There is no ‘Standard’ for a 4-bed, 6-person house.
Note that both houses reach and exceed the space requirements and room sizes for a 2-storey, 4-bedroom (7-person) house.

- By reason of the siting and design of the Houses, consider that they do not impinge on the residential and visual amenities of the area.
Specifically, no undue overshadowing and overlooking will result, nor will there be an overbearing impact on neighbouring properties.
- **Further Information (F.I.) Request :**
Issue: 1st floor rear window serving bedroom-2 is c.4.0m from the party boundary with No.15 Croaghpatrick Road.
Concern that the proximity of this window to the boundary, could result in “undue overshadowing”

Applicant’s F.I. response:

- Revised drawings, with cover documentation submitted.
- Reconfigured ‘house plans’ for both ‘House Types’ submitted. Both ‘house types’ now do not have a 1st floor, rear window. Consequently, no overlooking of adjoining properties. All bedroom windows, for both ‘Houses’, now face onto the space between the 2no. ‘houses’.
- Revised drawings also show ‘House Type B’ reduced to 3-bedrooms (from 4-bedrooms), and that the footprint occupation of both ‘Houses’ has been adjusted.

Planning Assessment :

- Note taken of the F.I. reconfigured internal layout of both ‘Houses’, such that all bedrooms at 1st floor level face forward, towards each other and into the site.
- Note the rear elevation of both houses now contains :
opaque glazed windows serving bathroom / en-suite, and a window serving the stairs ‘landing area’.
- As a consequence, now accept that there would be no direct overlooking of adjoining properties.
- Notwithstanding slight amendment to the overall shape and size of both the dwellinghouses, conclude that both houses continue to provide an acceptable form of accommodation / living space

Private Open Space

- Section 16.10.2 of the City Development Plan 2016-2022 requires 10m² 'private open space' per bedspace.
- Therefore 40m² 'private open space' required per house.
- Note the following 'private open space' proposed per house –
 - House Type A – 305m²
 - House Type B – 125m²
- Accordingly, no objection to the quantity or quality of 'private open space' proposed.

Public Open Space

- Section 16.10.3 of the City Development Plan 2016-2022 requires –
 - that 10% of the site area in new residential developments, be set aside as 'public open space'
 - compliance with qualitative Standards, in the provision of 'public open space'
- Should the size and / or shape of public open space provided, be such as to inhibit its useful purpose, Section 16.3.3 then allows that "a financial contribution towards provision of a new park in the area, improvements to an existing park and / or enhancement of amenities shall be required (having regard to the City's Parks Strategy)".
- Due to the restricted nature of the application site, the applicant has stated that "a financial contribution in lieu of private open space would be acceptable".

Access Arrangements

- Note access proposed via private laneway between Nos'. 10 and 12 Ardpatrick Road
- Note 'affidavit' submitted, stating applicants 'right of way' over the laneway
- Reference City 'Transportation Planning Division (TPD)' concern regarding –
 - potential for vehicular conflict generated by the proposed development, on the laneway.

- The City TPD assert need for applicant to “explore measures which manage the use of the laneway so that priority will be given to incoming vehicles. The provision of road markings, signage etc. within the site may be appropriate in this regard”.
- sightlines for vehicles exiting the site, and
- access for emergency vehicles to the site.
- City TPD note the applicants ‘swept path analysis’, demonstrating that the laneway is accessible when cars are parked outside Nos 10 and 12 Ardpatrick Road.
- However, the TPD’s concerns regarding sightline visibility at the entrance to the site have not been addressed. Consider applicant be requested to address this matter. Suggest the provision of double yellow lines either side of the access, may be necessary to achieve adequate sightlines. Further, applicant to demonstrate the site is accessible by fire tenders and refuse collection vehicles.
- Having regard to issues raised by the City TPD, **F.I.** requested from the applicant.
- **Further Information (F.I.) Request :**
Issue:
 - In order to address concerns regarding the access and egress arrangements for the proposed development, applicant to address the following by way of F.I.
 - Details clarifying how use of the access laneway will be managed, so that –
 - (a) Priority is given to incoming vehicles, and the situation is avoided where vehicles reverse out onto Ardpatrick Road. In this regard, applicant to consider potential for provision of road markings / signage within the site, or other alternative measures which adequately enable usage of the access laneway.
 - (b) sightlines to appropriate ‘Standards’ can be achieved at the entrance to the access laneway off Ardpatrick Road. Double yellow lines either side of the entrance may be necessary in order to achieve adequate sightlines.

- (c) the site is fully accessible by fire tenders and refuse collection vehicles.

Applicant's F.I. response :

- (a) Revised plans submitted as F.I., identifying proposed signage and road markings, enabling a safe access.
- (b) Revised plans, identifying achievable sightlines at the Ardpatrick Road entrance. Further, options included relating to possible double yellow lines, in the event that this is required by the Planning Authority.
- (c) applicant's F.I. clarification such that
 - For 'fire tenders', both houses are within 45m of Ardpatrick Road, an acceptable and accessible location, in accordance with Part B of the Building Regulations
 - For 'refuse', F.I. proposal that residents wheel their 'bins' down the access laneway to Ardpatrick Road, to be collected as part of the normal collection of refuse along Ardpatrick Road. This would avoid the need for refuse collection vehicles to access the site via the laneway.

Planning Assessment :

- Reference the City 'Transportation Planning Division' further comments, confirming that the applicant has satisfactorily addressed concerns.
- Accordingly, no objection to the proposal.

Trees

- Existing trees on site noted.
- Having regard to the proposed site layout plan, note that 6no. trees proposed to be retained. However, no 'tree survey' submitted with the application.
- Having regard to Section 16.3.3 of the City Development plan 2016-2022, **F.I.** requested from the applicant by way of submission of a tree survey and information on which trees to be retained on site, and any additional / new trees proposed.

- **Further Information (F.I.) Request :**

Issue:

- Concern regarding the potential for loss of existing mature trees on site.
- 'Tree Survey' requested from applicant, to include –
 - 'tree protection measures',
 - 'root protection' areas, and
 - details of any new trees to be planted on site.

Applicant's F.I. response :

- An 'Arboricultural Assessment' report, completed by CMK Hort & Arb Ltd., submitted as F.I.
- The report outlines –
 - that there are not trees on the application site, and
 - that for trees on neighbouring properties, it is not envisaged that any roots will pass beneath the boundary fence / wall and into the application site. No impact will result on the roots of such neighbouring trees.
 - identification of 1no. hedge, and 1no. tree which overhang the application site. These will be reduced to facilitate development. Such reduction will not impact on the health of the hedge, or tree.
 - that 'new' tree planting is proposed to the rear of both of the proposed dwellinghouses.

Planning Assessment :

- Note taken of the applicant's F.I. 'Arboricultural Assessment' report, completed by CMK Hort & Arb Ltd.
- Subject to a Condition requiring the applicant to submit a 'method statement' outlining how the trees to be retained, will be protected during construction, being attached to any permission granted, the applicant is considered to have satisfactorily addressed the Planning Authority's concerns.

Appropriate Assessment

- Having regard to :
 - the nature and scale of the proposed development
 - the proximity to the nearest European site,

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.

Conclusion

- Having regard to the nature and scale of the proposed development, the proposed development –
 - would not adversely affect the character and setting of the property, and
 - would not seriously injure the amenity of property in the vicinity.
- Subject to compliance with Conditions attached, the proposed development would be in accordance with the City Development Plan 2016-2022 and with the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

<u>Engineering Dept. – Drainage Division</u>	No Objection, subject to Conditions
<u>Transportation Planning Division</u>	'Further Information' (F.I.) requested

3.3. Prescribed Bodies

Irish Water No response

3.4. Third Party Observations

- 3.4.1. The Planning Authority comment "a large number of objections" noted, as received.

3.4.2. The issues argued include –

- Permission was previously refused for a similar development.
- Proposed development contravenes the 'Z1' zoning objective – “to protect, provide and improve residential amenities”
- Proposed development is out of character with the existing residential estate.
- Negative impact on the residential and visual amenities of the adjoining properties. In particular, the scheme is overdevelopment of the site and would result in an 'overbearing' impact on the adjoining properties. The houses are higher than the existing houses, with associated concerns regarding 'overlooking' and 'overshadowing'.
- The applicant does not have ownership of the 'access laneway'.
- The access laneway is unsuitable for vehicular access due to its narrow width, and lack of visibility / poor sightlines.
- The dimensions of the laneway are incorrect. It has a maximum width of 3.3m.
- Emergency vehicles and refuse trucks cannot access the site.
- There are no turning circles provided on site.
- Open space cannot be taken in charge of by Dublin City Council, as access to the site is over private property.
- Inadequate car parking provided on site is contrary to the Development Plan Standards and will result in overspill car parking onto the surrounding road network.
- Construction traffic and practices have not been included with the application.
- Drainage issues have not been addressed adequately. Drains currently block and overflow. SUDS has not been included in the design of the scheme.
- There are services under the laneway which have not been addressed in the application.
- Water pressure is low in the area. The development will exacerbate the existing situation.
- Inadequate provision of private open space for the proposed houses.
- Proposed development will endanger existing trees and trees will be lost as a result.
- Consequent loss of 'biodiversity' on the site.

- No 'public lighting' is proposed on the laneway.
- Re-opening of the laneway gates would result in antisocial behaviour.
- The proposed development would set an undesirable precedent for similar sites in the area.
- The site should be used as a green space / public space, and
- Concern regarding the location of the 'site notice' on a public pole.

Planning Authority confirm that the above references have been noted, and taken into account in the assessment of the proposed development.

4.0 Planning History

Ref.3918/17 Application for the demolition of existing garages / sheds and the construction of 4no. 3-bedroom 2-storey houses at a 'backlands site' accessed off Ardpatrik Road, 4no. on-street parking spaces to be provided within the site, and the site is to be accessed via an existing laneway off Ardpatrik Road.

Planning Permission Refused for 1no. 'Refusal Reason' as follows –

“Having regard to the backland location of the site, with access from a substandard laneway, the proposal would endanger public safety by reason of a traffic hazard, would set an undesirable precedent for development which would be incompatible with the established pattern of development and character of the area. In addition, the siting and size of the development on a restricted site would constitute overdevelopment, which would seriously injure the amenities of property in the vicinity in terms of overbearing impact and noise disturbance. The proposed development would therefore, contravene the residential zoning objective for the area, and paragraph 16.10.8 – ‘Backland Development’ of the Dublin City Development Plan 2016-

2022, and would be contrary to the proper planning and sustainable development of the area”.

5.0 Policy Context

5.1. Project Ireland 2040 – National Planning Framework

Chapter 4 : Making Stronger Urban Places

National Policy Objective 4 Ensure the creation of Attractive, Liveable, Well Designed high-quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

Chapter 6 : People, Homes and Communities

National Policy Objective 35 Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.2. Dublin City Development Plan (2016-2022)

Relevant provisions include (see copies attached):

Ch5 Quality Housing

5.5 Policies and Objectives

S5.5.1 National and Regional Guidelines and the ‘Housing Strategy’

It is the Policy of Dublin City Council:

QH1: To have regard to the DEHLG Guidelines on ‘Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007), ‘Delivering Homes Sustaining Communities – Statement on Housing Policy’ (2007), ‘Sustainable Urban Housing: Design Standards for New Apartments’ (2015) and

‘Sustainable Residential Development in Urban Areas’ and the accompanying ‘Urban Design Manual: A Best Practice Guide’ (2009).

S5.5.2 Sustainable Residential Areas

It is the Policy of Dublin City Council:

QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

S5.5.7 Houses

It is the Policy of Dublin City Council:

QH21: To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.

QH22: To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

S10.5.7 Trees

It is the Policy of Dublin City Council:

GI28: To support the implementation of the Dublin City Tree Strategy, which provides the vision for the long-term planting, protection and maintenance of trees, hedgerows and woodlands within Dublin City.

GI29: To adopt a pro-active and systematic good practice approach to tree management with the aim of promoting good tree health, condition, diversity, public amenity and a balanced age-profile.

GI30: To encourage and promote tree planting in the planning and development of urban spaces, streets, roads and infrastructure projects.

It is an Objective of Dublin City Council:

- GIO25 :** To protect trees in accordance with existing Tree Preservation Orders (TPOs) and, subject to resources, explore the allocation of additional TPOs for important / special trees within the city based on their contribution to amenity or the environment.
- GIO26 :** To review ancient and species-rich hedgerows within the city (as identified in the 2006 survey of ancient and species rich hedgerows in Dublin City) and protect existing hedgerow sections.
- GIO27 :** To protect trees, hedgerows or groups of trees which function as wildlife corridors or ‘stepping stones’ in accordance with Article 10 of the EU Habitats Directive.
- GIO28 :** To identify opportunities for new tree planting to ensure continued regeneration of tree cover across the city, taking account of the context within which a tree is to be planted and planting appropriate tree species for the location.
- GIO29 :** To encourage trees to be incorporated in (a) the provision of temporary green spaces (e.g. pop-up parks) either planted into the soil or within moveable containers as appropriate and (b) within sustainable urban drainage systems (SUDS), as appropriate.

S14.8 Primary Land-Use Zoning Categories :

Table 14.1 Primary Land-Use Zoning Categories

<i>Land Use Zoning Objective</i>	<i>Abbreviated Land Use Description</i>
Z1	Sustainable Residential Neighbourhoods

S14.8.1 **Sustainable Residential Neighbourhoods – Zone Z1**

Zoning Objective Z1 “To protect, provide and improve residential amenities.

Z1 Permissible Uses – include Residential.

(see copy of pg. 238 attached)

S16.10 Standards for Residential Accommodation

S16.10.2 Residential Quality Standards – Houses
(see copy of pg. 311 attached)

S16.10.8 **Backland Development**

- Dublin City Council will allow for the provision of comprehensive backland development where the opportunity exists.
- Backland development is generally defined as development of land that lies to the rear of an existing property or building line.
- The development of individual backland sites can conflict with the established pattern and character of development in an area. Backland development 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.
- By blocking access, it can constitute piecemeal development and inhibit the development of a larger backland area.
- Applications for backland development will be considered on their own merits.

S16.10.10 **Infill Housing**

Having regard to policy on infill sites and to make the most sustainable use of land and existing urban infrastructure, the planning authority will allow for the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant development plan standards for residential development; however, in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed.

Infill housing should :

- Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.
- Comply with the appropriate minimum habitable room sizes.
- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

5.3. Natural Heritage Designations

None.

6.0 The Appeal

6.1. 3rd Party Grounds of Appeal – Pauline Gleeson & Anthony Cleary, & Others (c/o No.8 Ardpark Road, Navan Road, Dublin 7, dated 19/05/2019) :

6.1.1. The grounds of appeal are set out fully in the documentation dated 19th May 2019, received by the Board date stamped 20th May 2019. These may be summarised as follows :

6.1.2. Grounds of Appeal and Supporting Material

- Reference the single historical application for residential development of the application site under ref.**3928/17**
- Application ref.**3928/17** refused by Dublin City Council for a single ‘refusal reason’, which included the following elements :
- Current application has not sufficiently changed so as to overcome the previous refusal reasons.
- A ‘backland’ residential development is still proposed, with access from a substandard laneway, notwithstanding this being the main ‘refusal reason’ under the previous refused application.
- The Planning Authority did not have regard to several issues in the decision to grant planning permission, subject to Conditions. These include –
 - 2no. 2-storey dwellinghouses, is not appropriate on this restricted backland site.

- access is substandard and unsafe, and
- those residents who will experience ‘overbearing’ impact to the rear of their properties, also lose on-street car space to the front of their properties (see details below).

6.1.3. Access / Hazard

- The ‘laneway’, referenced by the applicant as “an existing access road”, is the narrow shared lane between Nos.10 and 12 Ardpatrick Road.
- Under the ref.3928/17 refusal decision, vehicular access and egress via this lane was deemed to endanger public safety by reason of traffic hazard
- Particular reference was given to the poor sightlines.
- Distinguish the lane is not owned by the applicant, it does not form part of the application site, and contains 2 sets of locked security gates in the ownership of the residents of No’s 6-18 Ardpatrick Road, and who all have ROW to access the lane.
- Because the lane is neither within the redlined application site, or under the control of the applicant, “the Board cannot impose Conditions to mitigate the traffic hazard that will be attached to the proposed development”.
- In the absence of such mitigating Conditions to improve traffic safety (ie. lane widening, and improvement to sightlines), “the Board should refuse permission for the proposed development on the grounds of traffic hazard and endangerment to residents of the area”.
- The implications of the laneway and the ‘locked security gates’ not being in the applicant’s ownership, was not fully considered by the Planning Authority in assessment of hazard.
- Confirm the applicant has not sought agreement with any Ardpatrick Road resident with ROW to remove the locked gates.
Therefore, any party, including construction traffic wishing to access the backland application site, would have to park, open the locked gates, and then relock them again, causing additional traffic hazard on Ardpatrick Road.
- The hazard created by required parking in front of the gates, in order to unlock them, was not fully considered in the decision to grant planning permission under ref.**3726/18**.

- Emphasise that “existing residents and owners have not consented to the removal of the locked gates in their ownership due to concerns regarding security, access and public safety”.
- Conclude that the issue of traffic hazard associated with development of the backland site has not been resolved in the current application, notwithstanding the reduction in the number of dwellinghouses proposed.

6.1.4. **Inadequate Access for Vehicular waste Fire and Emergency Services**

- the access lane width at 3.25m is not adequate to allow for construction related, general vehicular waste fire and emergency services access, turning and egress
- Further, existing drains, cills and downpipes, as well as windows and doors opening onto the lane, further restrict the already substandard lane width. Mitigation of these items (eg. boxed off) would further reduce the accessible width of the lane to less than 3.0m.
- Reference report by FISCA (Fire and Access on line Consultancy), included with the appeal documentation. Contrary to the applicant’s F.I. response submission, the FISCA report concludes “that the existing lane is inadequate and cannot give the necessary access facilities for the Fire Brigade, Bin Lorries, or Oil Delivery Lorries to the proposed development”.
- Emphasise that as proposed, the development “cannot comply with the requirements of Volume 2, Part B of the Second Schedule of the Building regulations 1997-2017, and the Recommendations for Site Development Works for Housing Areas (see report)”.

6.1.5. **Increased Traffic and Insufficient Car Parking Causing Traffic Hazard**

- The proposed development will directly result in increased traffic loading of Ardpatrick Road.
- Given the ‘backland’ location, accessed via narrow laneway, consider it very likely that provision of just 1no. car parking space (understood on-site) will result in –
 - a 2nd family car parking on Ardpatrick Road on an almost permanent basis, and

- visitors will indiscriminately park on Ardpatrick Road, neighbouring roads, or on the narrow lane itself.
- Consequently, such a scenario would impede vehicular movement of existing residents on Ardpatrick Road, and in the wider area.
- Consequent increased traffic and on-street car parking will negatively impact the residential amenity of existing residents.
- Emphasise endangerment to public safety by reason of difficulty of access in an emergency
- Section 4.23 of the report 'Sustainable Residential Development in Urban Areas', and the supplementary 'Urban Design Manual : A Best Practice Guide' (2009), set out that "residential roads and streets should be safe for people to drive, to cycle, to walk and in certain situations to play in".
The proposed development, and particularly the proposed access via the narrow substandard laneway, "has the potential to seriously threaten safety of residents and in particular the infirm and children, who walk and play on this road and lane".
- Design Manual for Urban Roads and Streets (2013), at Chapter 2 states that if on-street car parking is not provided for visitors, "it can lead to poor parking behaviour".

6.1.6. **Provision of Double Yellow Lines Unreasonable**

- Condition No.6 (ref.3726/18) requires applicant to agree the provision of 'double yellow lines' with the Council, in order to achieve satisfactory sightlines.
- No clarity provided for existing residents. Several options were presented (by applicant) in response to the Planning Authority's F.I. request in this regard.
- Emphasise as "unreasonable in the extreme", the decision to permit "inappropriate and overbearing backland development" to the rear of existing residents houses, and "at the same time prohibit parking to the front of the affected residents' houses".
- Emphasise the consequential removal of up to 8no. on-street car parking spaces on Ardpatrick Road, as being an unreasonable impact on Ardpatrick Road residents, and is not in the wider community or public interest.

- As a consequence, anticipate that residents will be forced to convert front gardens to car parking, at their own expense. This is not sustainable in terms of climate change.

6.1.7. **Backland Development**

- Reference the Dublin City Development Plan 2016-2022 provisions at 16.2.1 – “Design Principles”, and 16.10.8 re. “Backland Sites”.
- having regard to these provisions, argue :
 - like the historically refused application on this site, the current application represents inappropriate backland development.
 - 2no. 2-storey houses are not suitable on this restricted backland site :
 - where loss of amenity is a key issue for surrounding existing residents, and
 - there is conflict with the established pattern and character of development.
 - that no attempt evident to design creatively and sensitively. For example – 1no. low rise house, of high-quality design, with green principles preserving the character of the area
 - no attempt apparent by the applicant to landscape, or screen the impacts consequent of the proposed development, on the worst effected adjacent existing residents.
 - proposed design fails to address immediate environment, amenities of neighbours and existing properties
 - emphasise no consultation with neighbours immediately affected by proposed development.

6.1.8. **Design / Overbearing / Loss of Amenity and Privacy**

- Notwithstanding reduction of proposed development of the site to 2no. houses, argue that the siting of proposed Houses A and B “has equal if not more overbearing and noise impacts” on the adjacent properties fronting Ardpatrick Road, as that considered in the previously stated ‘Refusal Reason’.
- Rather, highlight that the scale and bulk of proposed Houses A and B has increased, and “due to their height, scale, massing and close proximity to the

neighbouring properties, the overbearing impact and the loss of privacy is significant”.

- Reference enclosed photograph with the Appeal submission, taken from the rear of No.8 Ardpatrik Road.
Point out that the proposed House A ‘gable wall’ will straddle this garden width, and that of No.10 Ardpatrik Road.
- At present, these rear domestic gardens benefit from unobstructed light from several directions, enabling the perception of openness within what are small rear urban gardens.
- Contrary to the ‘Z1’ zoning objective, the proposed development –
 - will have a direct negative impact on visual and residential amenity, and
 - will result in loss of ‘open space’
- The current sense of ‘openness’ would change, to that of “overbearing enclosure and over dominance of private open space areas”.
- Assessment of new development requires consideration of how the design has responded to the existing context and pattern of the “surrounding townscape”
- Consider proposed development as being
 - visually intrusive at such close proximity, and
 - out of context with the established character of the area.
- By reason of greater bulk, height, positioning and close proximity to adjacent rear domestic gardens, the proposed development would be visually obtrusive and overbearing.
- Consequently, the proposed development would be seriously injurious to the visual and residential amenities of neighbouring properties, and therefore contrary to the proper planning and sustainable development of the area.

6.1.9. **Overlooking**

- Point out the revised drawings for ref.**3726/18** show the 4no. bedrooms of House A and the 3no. bedrooms of House B “directly overlooking one another at the front”.
- Note applicant had difficulty addressing overlooking at the rear and sides due to the restricted nature of the site. Consequently, the resultant design has all

bedrooms facing one another. Consider this as poor design, and visually as looking “institutional”.

- therefore, not only will the proposed development negatively impact residential amenity of existing neighbours / residents, but also will negatively the residential amenity expected by future residents of the proposed 2no. houses, should the Board be minded to a grant of planning permission.

6.1.10. Failure to Adhere to Design Principles

- Design Standards in the proposed development have been demonstrated as “poor”, in respect of protection, provision and improvement of residential amenity, public safety, fire safety, waste services and water services.
- Section 3.12 of the report ‘Sustainable Residential Development in Urban Areas’, and the supplementary ‘Urban Design Manual : A Best Practice Guide’ (2009), set out that high standards of design be encouraged by Planning Authorities. In this regard therefore, “proposed development which barely meets minimum Standards should not be accepted”.
- Emphasise that where design is of such poor quality, as to result in sub-standard housing environment, “permission should be refused”.
- Proposed development fails to comply with the following ‘design principles in four elements’, set out at Section 16.1 of the Dublin City Development Plan 2016-2022 –
 - design that respects and enhances character and context
 - sustainable design
 - inclusive design
 - design for a safer environment
- Section 16.2.2 Design Standards of the Dublin City Development Plan 2016-2022
 - Proposals for new development must ensure that waste storage facilities, servicing and parking are so sited and sensitively designed so as to minimise visual impact and to avoid adverse impacts on users in the surrounding neighbourhood.
 - Waste storage and collection has not been adequately addressed as part of the proposed development.

- Residents will be negatively impacted by the fact the proposed development cannot be serviced by waste removal vehicles.
- Section 5.9(i) of the report 'Sustainable Residential Development in Urban Areas', and the supplementary 'Urban Design Manual : A Best Practice Guide' (2009), set out that the design approach be based on the need to protect the amenities of adjoining neighbours and the general character of the area and its amenities
The proposed development will have an 'overlooking' and 'overbearing' impact on directly adjoining neighbours, and therefore cannot meet the requirements of Section 5.9(i).
- New residents are also entitled to expect their new homes would offer reasonable levels of amenity, privacy and security. This is not achieved by the proposed development.

6.1.11. Impacts on Daylight, Sunlight and Comfortable Use

- Sufficient daylight is necessary to enable comfortable use of habitable rooms and external spaces.
- Proposed development will negatively impact the levels of light enjoyed by Ardpatrick Road properties, by virtue of the height, scale and proximity of the blank gable walls of the proposed new houses, to the existing properties and rear gardens.
- An 'outlook of good quality' is also to be enjoyed, without adjacent buildings be overbearing and visually dominant. Proposed development will seriously injure the outlook from habitable rooms / spaces within the row of Ardpatrick houses.
- This specifically applies to those houses proximate to the 'blank gable walls'. The blank gable wall heights, will have an overbearing impact on the family rooms and rear domestic gardens of these Ardpatrick Road houses.
- With a north-easterly aspect, unobstructed day / natural light from this direction will be obstructed by the 'blank gable walls'

6.1.12. Other Use for the Backland Site

- Other more appropriate beneficial uses exist for the backland site.
- An Bord Pleanála is not bound by the designated 'Zoning Objective' for the site, which is considered an inappropriate zoning.
- As a tightly knit, vibrant local community, they have advanced plans for a "community garden / allotment", and are organised under a "well established Residents Group (CASS – Croaghpatrick, Ardpatrick, Screen and Slemish).
- Application site is ideally suited for a community garden. This could become a precedent "for creative and green use of restricted backland sites".
- Assert site previously used as an 'allotment'. The local communities' intentions for the site (ie. community garden / allotment), "would be a continuation of use".
- Such preferred intended use would also assist in "Climate Change Adaptation / Green Principles", which modern society needs to aim for.
- Other ideas for an alternate preferred use include – "pollinator plants, bee keeping, small orchard, and vegetable and fruit gardens".
- Assert leadership in this regard, as a local community.

6.1.13. Conclusion

- The development, as proposed would –
 - endanger public safety by reason of traffic hazard
 - set an undesirable precedent for backland development
 - represent an overbearing impact for local residents
 - contravene
 - the residential zoning objective, and
 - paragraph 16.10.8 – 'Backland Development' of the City Development Plan 2016-2022, and
 - be contrary to the proper planning and sustainable development of the area.
- The cumulative impacts arising from the proposed development are unreasonable.
- In every aspect the proposed development would negatively impact contextual quality of life, and that many people locally.

- There are no positive outcomes or benefits to existing or future residents locally, from the proposed development.
- Other “creative beneficial uses for this restricted space” are possible (ie. a community garden / allotment run and managed by local residents).

6.2. 3rd Party Grounds of Appeal – David Kennedy (No.10 Ardpatrick Road, Navan Road, Dublin 7, dated 20/05/2019) :

The grounds of appeal are set out fully in the documentation dated 20th May 2019, received by the Board date stamped 20th May 2019. These may be summarised as follows :

6.2.1. Previous decision on the development :

- Dublin City Council previously refused planning permission on this application site, for a single ‘refusal reason’, generally as follows –

Contravention of the ‘residential’ zoning objective for the area, and section 16.10.8 – ‘Backland Development’, of the Dublin City Development Plan 2016-2022, having regard to :

- threat to public safety by reason of traffic hazard (ie. sites backland location, accessed via narrow substandard laneway onto Ardpatrick Road)
- would set a precedent for development, incompatible with the established pattern of development, and character of the area, and
- overdevelopment of the site due to the siting and size of the development, with consequent injury to the amenities of property in the vicinity due to ‘overbearing impact’ and ‘noise disturbance’

6.2.2. Lack of Ownership :

- The access laneway is not in the ownership of the applicant – Mr. A. Dwyer.
- This laneway is proposed to access the site from Ardpatrick Road.
- Noteworthy is that the laneway also enables access to pedestrian lanes to the rear of Nos’ **6 to 18** Ardpatrick Road.

- The laneway, not owned by the applicant, has 2no. locked security gates across it. These gates were erected by the surrounding residents, over 25years ago.
- Applicant has no rights to remove, or otherwise these gates, unless permission for such has been granted by these parties.
- As laneway is in the ownership of 3rd party, and has locked security gates across it, the City Council cannot take the proposed development in charge, as Council will not have rights to access the development, across 3rd party lands, in order to maintain critical functions.
- Emphasise that applicant cannot develop lands outside the red-boundary indicated in the application documentation. Effectively therefore, the gates cannot be removed without agreement from the residents who use and maintain the lane for rear access to their properties.
- Note the applicants avoidance of referencing that the laneway has been gated for over 25years.
- Distinguish the applicant “can only pass on the Right of Way”.
- Point out that cars will have park in order to open the gates, thereby causing additional traffic hazard. This has not been taken account of in the decision to grant planning permission.
- “Part of the proposal (signage) is situated outside of the applicants land, in land not taken in Charge by Dublin City Council”.

6.2.3. **Safety Hazard to Users :**

- Reference that Dublin City Development Plan 2016-2022, at Objective SN1, states ‘Safety’ as one of its Objectives
- City Development Plan 2016-2022 also references the ‘Design Manual for Urban Roads and Streets, as its ‘Design Guide’. See Section 16.9 – ‘Roads and Services’

6.2.4. **Width of Laneway**

- report by Dr. Paddy Prendergast on the width of the laneway across various sections from Ardpark Road to the application site, included with the 3rd party appeal documentation.

- Report indicates width of the laneway is below acceptable limits for planning in such an environment.
- No footway is identified or provided for along the laneway.
- There being no public lighting, renders the laneway extremely unsafe for all users
- Doors, windows and other laneways (used for wheelie bin access) open directly onto the lane
- In combination with the narrow width, means that pedestrians walk out in front of vehicles accessing the proposed development.
- Because the applicant does not own the laneway, “there is no means of improving the laneway for users”.
- laneway is too narrow to enable emergency access by the Fire Brigade / Ambulance Service. This presents a significant safety hazard to potential occupants, which is made worse by the presence of 2no. sets of locked gates.
- All the obstructions present in the laneway require protection by rails and guarding according to the Building regulations, which show good practice for access routes.
- Because the applicant does not own the laneway, appropriate facilities cannot be provided to the laneway.
- Proposed development is neither compliant with ‘DMURS’, or ‘Safe’. Therefore, the proposed development contravenes 2no. major principles of the City Development Plan 2016-2022.

6.2.5. **Impact on Existing Neighbours and Existing Character of the Area :**

- the impact on the houses directly adjacent the laneway (ie. Nos 10 and 12 Ardpatrick Road) is severe. Cars and heavy vehicles would pass along the laneway within 500mm of the living space of both houses.
- Distinguish several services (eg. plastic wastewater downpipes) which would be vulnerable to collision in such a narrow laneway.
- Were public lighting provided along the laneway, light pollution would seep into existing windows. Further, such public lighting could not be provided without further narrowing of the laneway.
- Noise and vibration would also significantly increase along the laneway, with significant impact on the residents.

- Proposed development is in the backland of 18no. existing houses, and is overlooked by c.40no. existing houses.
- The development is located within a completely enclosed area. Proposed houses will be sited close to all of the adjacent houses.
- Currently, each of the existing houses “overlook a green, tranquil triangle of land comprising excellent biodiversity (foxes, badgers, bats etc)”.
- The site is unlit, providing a peaceful green area to the rear of all houses.
- Proposed houses are very large and will overlook the existing houses and gardens.
- The houses will create a shear wall to the rear of the houses along Skreen Road and some of Ardpatrick Road.

6.2.6. **Double Yellow Lines**

- No agreement has been reached with residents that ‘double yellow lines’ are placed outside the houses of up to 10no. neighbours. This would significantly impact 3rd party car parking.
- Therefore, concern that the new incoming residents of the proposed development are being enabled with car parking, whilst negatively impacting existing car parking for c.10 existing residents.

6.2.7. **Lack of Sustainable Drainage**

- Point out that access to the drainage system from the development would be through 3rd party lands and through 2no. locked gates.

6.2.8. **Unserviced Land**

- No proposals are apparent within the application documentation clarifying how the site is to be serviced – electricity, water, storm, foul, gas and telecoms.
- Further, access over 3rd party lands would require an easement or wayleave, thereby enabling maintenance. This cannot be obtained by a private developer, without landowner permissions.

- Having regard to ‘safety’, the 2no. locked gates across the laneway, together with the very narrow width, present a significant safety hazard in respect of a gas leak.

6.2.9. Taking in Charge

- Because the proposed development is to be accessed via private land, with 2no. locked gates (established over 25years), it would not be possible for Dublin City Council to take part of the development in charge without a ‘plebiscite’ from those who own and maintain the gates.

6.2.10. Inaccuracies in the Planning Application

Reference inaccuracies within the planning application, overlooked by the Planning Authority as follows –

- application form incorrectly states that no previous planning application was made on the application site. Confirm a valid, but unsuccessful planning application lodged approximately 1-year earlier.
- reference drawings submitted with the application documentation as stating that access will be via a laneway, 3.7m wide. The minimum width of the laneway is accurately measured by Dr. Paddy Prendergast. This measurement included in the report included with the 3rd party appeal. Other permanent obstructions further impinge on the laneway width (ie. downpipes, open windows, gate posts etc). Emphasise this as a very significant inaccuracy, which has been overlooked by the Planning Authority.
- Assert the ‘swept path analysis’ submitted by the applicant (ie. illustrating vehicular access of site) as being not appropriate, as follows –
 - specifically, it assumes no car parking on Ardpatrick Road, on the opposite side of the laneway. Confirm car parking “invariably” on both sides of the Road.
 - it provides a ‘swept path’ for a car only.
 - it does not demonstrate access to the site by emergency vehicles, waste collection vehicles, construction vehicles, delivery vehicles etc. These vehicles cannot access the site due to insufficient width of Ardpatrick Road, with car parking on both sides of the road.

- Reference applicants inclusion of an ‘affidavit’ stating the applicant has “‘unobstructed and unfettered’ access to the site, and that the applicant has owned the site since 1984”. Confirm that the laneway is obstructed, by 2no. locked gates. Emphasise this as a significant issue regarding potential residents gaining access to the site, and the need to maintain locked gates. Confirm an affidavit to this effect, attached to the 3rd party appeal submission.
- Whereas the applicant states the overlooking distance to the 1st floor living accommodation onto Skreen Road is 38m, the distance is actually 32m. Distance to ground floor living accommodation is 27m.
The overlooking distance between the back windows of the proposed development to the 1st floor windows of houses onto Ardpark Road is below 22m
Note applicants proposal for obscured glass in windows to the rear of the development. Assert this as wholly ineffective as a measure to prevent overlooking, “unless the windows were fixed closed”.

6.2.11. Construction Disruption :

- Access is proposed through the ‘extremely narrow laneway’, via 3rd party lands and through 2no. locked gates. Therefore, it would not be possible to construct the development.
- Construction on site will require demolition of existing buildings on site, excavation of existing topsoil, and supply of all building materials.
- Approximately 700-1000 large vehicle trips will be required. However, because large vehicles cannot access the site, many more smaller vehicle trips will be necessary.
- Any construction type vehicle movements along the laneway –
 - Would be very close to the living spaces of both Nos 10 and 12 Ardpark Road
 - Causing significant detrimental impacts to both sets of residents by way of “noise and vibration”, and
 - May require removal of some of their front garden space to achieve this.

- Note garages currently on site have asbestos roofing (c.250m²). No method has been submitted by applicant as to how this material will be removed from site in a safe and environmentally sound manner.
- Construction workers would of necessity have to park their vehicles on Ardpatrick Road. This will negatively impact existing car parking and traffic movements / flow along Ardpatrick Road. Over a year this would be a “significant disruption”.

6.2.12. **Conclusion :**

- proposed development “is wholly unsuitable in this location”.
- existing application site is small, and provides high amenity value to surrounding houses.
- proposed development
 - is unsafe in many respects
 - contravenes Development Plan 2016-2022 ‘Standards’ and ‘Guidelines’ regarding :
 - access and egress
 - car parking
 - impact on character of the area
 - diminishment of biodiversity
 - lack of sustainable drainage
 - proposed ‘double yellow lines’ to impact current residents, etc.
 - to be accessed via a narrow laneway,
 - which is in the ownership of a 3rd party
 - which has 2no. existing locked security gates across it, owned by others.
 - due to there being no means of servicing the development, it cannot be taken in charge.
- Mitigations proposed by the applicant do not practically address any of the safety concerns raised in the 3rd party submissions
- Applicant’s F.I. submission does not address how cyclists, pedestrians or other vulnerable users, will use the laneway safely.

- Previous application ref.**3918/17** was refused planning permission for a clear and unambiguous ‘refusal reason’. The issues set out in the ‘refusal reason’, have not been addressed by the current application.
- Proposed development therefore,
 - is contrary to the provisions of the Dublin City Development Plan 2016-2022, and
 - “should be refused”.
- As residents of the local community, recommend to the Board that the City Council’s decision to grant planning permission be overturned.

6.3. 3rd Party Grounds of Appeal – Tony and Eimer Mortimer (No.38 Skreen Road, Navan Road, Dublin 7, dated 17/05/2019) :

The grounds of appeal are set out fully in the documentation dated 20th May 2019, received by the Board date stamped 20th May 2019. These may be summarised as follows :

6.3.1. Previous decision on the development :

- Dublin City Council previously refused planning permission on this application site, for a single ‘refusal reason’, generally as follows –

Contravention of the ‘residential’ zoning objective for the area, and Section 16.10.8 – ‘Backland Development’, of the Dublin City Development Plan 2016-2022, having regard to :

- threat to public safety by reason of traffic hazard (ie. sites backland location, accessed via narrow substandard laneway onto Ardpatrick Road)
- would set a precedent for development, incompatible with the established pattern of development, and character of the area, and
- overdevelopment of the site due to the siting and size of the development, with consequent injury to the amenities of property in the vicinity due to ‘overbearing impact’ and ‘noise disturbance’

- Assert that whilst density reduced from 4 smaller houses to 2no. larger houses, the size of the 2no. houses now proposed, and their location so close to existing rear gardens, is still 'overbearing'.
- The sheer 7.75m building face across the end of their gardens to be extremely overbearing, as well as creating large shadows.
- Apart from the reduction in houses proposed on site, assert that very few changes have been made in the new (current) application. Reduction to 2no. houses does not diminish the Planning Authority previous concerns regarding 'overbearing' impact.
- As proposed, the 2no. houses will negatively impact the amenity and privacy of up to 18no. adjoining houses, and 40no. close by currently enjoying views to the area and benefit from its biodiversity.
- proposed development does not open up 'comprehensive backland' (ref. 16.10.8 of the City Development Plan 2016-2022), and consequent of alteration to the character and amenity of the area, has a huge impact on many existing residents.

6.3.2. Lack of Ownership

- Lands owned by the applicant confined to that within the red lined boundary around the application site.
- The access laneway is not in the ownership of the applicant – Mr. A. Dwyer.
- This laneway is proposed to access the site from Ardpatrik Road.
- Noteworthy is that the laneway also enables access to pedestrian lanes to the rear of several gardens.
- The laneway, not owned by the applicant, has 2no. locked security gates across it. These gates were erected by the surrounding residents, over 25years ago.
- Applicant has no rights to remove, or otherwise these gates, unless permission for such has been granted by these parties, "which will not be given".
- As laneway is in the ownership of 3rd party, and has locked security gates across it, the City Council cannot take the proposed development in charge,

as Council will not have rights to access the development, across 3rd party lands, in order to maintain critical functions.

- “Part of the proposal (signage) is situated outside of the applicants land, in land not taken in Charge by Dublin City Council”.

6.3.3. Safety Hazard to Users

- Reference that Dublin City Development Plan 2016-2022, at Objective SN1, states ‘Safety’ as one of its Objectives
- City Development Plan 2016-2022 also references the ‘Design Manual for Urban Roads and Streets (DMURS), as its ‘Design Guide’. See Section 16.9 – ‘Roads and Services’
- Reference inclusion of report addressing the access and egress to and from, and movement within the proposed development. The report demonstrates –
 - laneway is too narrow (3.04m) and long (30m) for safe access and egress traffic movements
 - visibility from laneway is “very substandard and presents a safety hazard”
 - no capacity for ‘turning circles’ exists within the development, with consequent hazard.
 - no footpath and public lighting renders laneway unsafe for all users
- Doors, windows and other laneways (used for wheelie bin access) open directly onto the lane
- In combination with the narrow width, means that pedestrians walk out in front of vehicles accessing the proposed development.
- Because the applicant does not own the laneway, “there is no means of improving the laneway for users”.
- laneway is too narrow to enable emergency access by the Fire Brigade / Ambulance Service. This presents a significant safety hazard to potential occupants, which is made worse by the presence of 2no. sets of locked gates.
- All the obstructions present in the laneway require protection by rails and guarding according to the Building regulations, which show good practice for access routes.

- Emphasise ‘vulnerable user’ access to the development to be provided in accordance with Part M of the Building Regulations. Reference Diagram 2 – Hazard Protection on Access Routes’ (included in the appeal submission), demonstrating good practice for access routes.
- Because the applicant does not own the laneway, appropriate facilities or mitigation intervention for safe usage cannot be provided to the laneway.
- Proposed development is neither compliant with ‘DMURS’, or ‘Safe’. Therefore, the proposed development contravenes 2no. major principles of the City Development Plan 2016-2022.

6.3.4. **Impact on Existing neighbours and the Existing Character of the Area**

- the impact on the houses directly adjacent the laneway (ie. Nos 10 and 12 Ardpatrick Road) is severe. Cars and heavy vehicles would pass along the laneway within 500mm of the living space of both houses.
- Distinguish several services (eg. plastic wastewater downpipes) which would be vulnerable to collision in such a narrow laneway.
- Were public lighting provided along the laneway, light pollution would seep into existing windows. Further, such public lighting could not be provided without further narrowing of the laneway.
- Noise and vibration would also significantly increase along the laneway, with significant impact on the residents.
- Proposed development is in the backland of 18no. existing houses, and is overlooked by c.40no. existing houses.
- The development is located within a completely enclosed area. Proposed houses will be sited close to all of the adjacent houses.
- Currently, each of the existing houses “overlook a green, tranquil triangle of land comprising excellent biodiversity (foxes, badgers, bats etc)”.
- The site is unlit, providing a peaceful green area to the rear of all houses.
- Proposed houses are very large and will overlook the existing houses and gardens.
- The houses will create a shear wall to the rear of the houses along Skreen Road and some of Ardpatrick Road.

- Lighting of the common area within the development will severely impact up to 40 other houses.

6.3.5. Inadequate Parking Provision and Lack of Turning Facilities

- By implication, the size of both of the houses proposed would mean an average of 2no. vehicles for each house during normal use, and more at peak times.
- Note that only 1no. car parking space has been proposed for each house.
- The development therefore does not have the required allocation of parking.
- Consequences of this would be additional car parking within the development, thereby worsening space capacity for adequate, safe turning movements, or overspill car parking on adjacent Ardpatrik Road.
- Note the City Development plan 2016-2022 does allow for less than the prescribed allocation. However, clarify that this relaxation is “only in areas where this reduction does not impact on the surrounding area”.
- Emphasise current car parking along Ardpatrik Road is along both sides of the road. Further the narrow road width, often requires cars to park with wheels up onto the sidewalk.
- Increased on street car parking would exacerbate the current situation, greatly impacting the surrounding area.
- Because no turning head / circle provided, cars have to do multi-point turns, which would not be safe within such a tight area.
- Overspill vehicles requiring parking space would likely first use the space to the east end of the development, and then Ardpatrik Road.

6.3.6. Inability to provide Sustainable Drainage

- application site “has no linkage to the combined drainage system in the area, so stormwater naturally discharges to the ground”.
- As proposed the development would comprise 50% hardstanding area, placing a huge surcharge on the existing drainage system, with consequent blocks and overflows.

- Proposed development does not include measures for ‘sustainable drainage systems’, a requirement of the City Development Plan 2016-2022 (ie. Sustainable Urban Drainage Systems – SUDS).
- Consequently, increasing load on the already overloaded combined sewer system, must be expected (ie. existing system not designed for this development).
- Point out that access to the drainage system from the development would be through 3rd party lands and through 2no. locked gates.
Because this cannot be taken in charge, it therefore creates an ownership issue for maintenance.
- At present, local residents maintain the proposed access laneway “and do not wish to maintain new infrastructure”.
- Include ‘photograph’ illustrating “surcharging of gulley leading to combined sewer on the adjacent Skreen Road during a recent 1 in 0.5 year storm”

6.3.7. **Unserviced Land**

- Emphasise the application site is currently unserviced.
- No proposals are apparent within the application documentation clarifying how the site is to be serviced – electricity, water, storm, foul, gas and telecoms.
- Further, access over 3rd party lands would require an easement or wayleave, thereby enabling maintenance. This cannot be obtained by a private developer, without landowner permissions.
- Having regard to ‘safety’, the 2no. locked gates across the laneway, together with the very narrow width, present a significant safety hazard in respect of a gas leak.

6.3.8. **Taking in Charge**

- In order that Dublin City Council can take charge of the proposed development, Council would require free access to the site for future

maintenance operations (ie. public lighting, drainage, signage, road sweeping, gulley cleansing, litter picking etc.).

- Because the proposed development is to be accessed via private land, with 2no. locked gates (established over 25years), it would not be possible for Dublin City Council to take part of the development in charge without a ‘plebiscite’ from those who own and maintain the gates.
- Reference the “City Council’s own policy for ‘Taking In Charge’”, and Section 180 of the Planning and Development Act 2000 (as amended).

6.3.9. Inaccuracies in Application

Reference inaccuracies within the planning application, overlooked by the Planning Authority as follows –

- reference drawings submitted with the application documentation as stating that access will be via a laneway, 3.7m wide. Rather, the minimum width is 3.04m, widening to 3.2m in places, but with further impingement by other permanent obstructions (ie. downpipes, open windows, gate posts etc). Emphasise this as a very significant inaccuracy, which has been overlooked by the Planning Authority.
- Assert the ‘swept path analysis’ submitted by the applicant (ie. illustrating vehicular access of site) as being not accurate or appropriate, as follows –
 - specifically, it assumes no car parking on Ardpatrick Road, on the opposite side of the laneway. Confirm car parking “invariably” on both sides of the Road.
 - it provides a ‘swept path’ for a car only.
 - it does not demonstrate access to the site by emergency vehicles, waste collection vehicles, construction vehicles, delivery vehicles etc. These vehicles cannot access the site due to insufficient width of Ardpatrick Road, with car parking on both sides of the road.
- application form incorrectly states that no previous planning application was made on the application site. Confirm a valid, but unsuccessful planning application lodged approximately 1-year earlier.
- Reference applicants inclusion of an ‘affidavit’ stating the applicant has “unobstructed and unfettered’ access to the site, and that the applicant has

owned the site since 1984”. Confirm that the laneway is obstructed, by 2no. locked gates. Emphasise this as a significant issue regarding potential residents gaining access to the site, and the need to maintain locked gates.

- Whereas the applicant states the overlooking distance to the 1st floor living accommodation onto Skreen Road is 38m, the distance is actually 32m. Distance to ground floor living accommodation is 27m.

The overlooking distance between the back windows of the proposed development to the 1st floor windows of houses onto Ardpatrick Road is below 22m

Note applicants proposal for obscured glass in windows to the rear of the development. Assert this as wholly ineffective as a measure to prevent overlooking, “unless the windows were fixed closed”.

- The proposed 2no. houses, with 7m distance apart, effectively overlook each other.

6.3.10. Construction Disruption

- Access is proposed through the ‘extremely narrow laneway’, via 3rd party lands and through 2no. locked gates. Therefore, it would not be possible to construct the development.
- Construction on site will require demolition of existing buildings on site, excavation of existing topsoil, and supply of all building materials.
- Approximately 700-1000 large vehicle trips will be required. However, because large vehicles cannot access the site, many more smaller vehicle trips will be necessary.
- Any construction type vehicle movements along the laneway –
 - Would be very close to the living spaces of both Nos 10 and 12 Ardpatrick Road
 - Causing significant detrimental impacts to both sets of residents by way of “noise and vibration”, and
- Construction workers would of necessity have to park their vehicles on Ardpatrick Road. This will negatively impact existing car parking and traffic movements / flow along Ardpatrick Road. Over a year this would be a “significant disruption”.

6.3.11. Further Information (F.I.) submitted by the Applicant not Addressing Main Issues

- **Signage and Management of the Laneway**
 - applicant's proposal to use "UK Traffic Signs Manual" not appropriate in Ireland.
 - as the laneway is private, the proposed regulatory signs cannot be enforced.
 - As signage not lit, nor is there public lighting in the lane, signage will not be legible to vehicle drivers / users.
 - Signage is not effective in private, non-enforceable environments such as the laneway. They "will be ignored".
 - Signage directing vehicle movement in avoidance / mitigation of conflict along the laneway. In reality, practicality of each situation would imply which ever vehicle has advanced the least would likely reverse back. Vehicles reversing back onto Ardpatrick Road, will reverse back over the public footpath onto the road itself. Assert this as "extremely unsafe practice", made worse by the lack of public lighting. Enclosed extract from the HSA Guidance emphasises "reversing is recognised as a significant driving hazard, particularly in confined areas".
 - Substantively demonstrate, that notwithstanding the applicants F.I. submission suggesting that the proposed signage will 'avoid' a situation whereby vehicles will reverse, this cannot be guaranteed.
 - The priority 'give way' signage is also flawed, as vehicles from both directions must be able to see each other in advance of making a decision to stop. In this regard, practically, sight of another vehicle will not be possible until turning manoeuvres have commenced.
 - Proposed signage requires maintenance. As the development cannot be taken in charge, there is no clear owner of this responsibility.
 - the signage is in "contravention of the 'traffic Signs Manual', is unsafe and is placed on land not owned by the applicant"
 - At present, 7no. homeowners access the laneway on foot. The introduction of vehicles would significantly increase the risk of an incident between a car and a pedestrian.

- **Visibility Splay and Yellow Line Provision**

- Note applicants proposal to overcome almost 0m visibility splay from the development by introducing yellow lines along the near side of Ardpatrik Road.
- Respond that this proposal “is misleading and inaccurate”, having regard to :
 - the footpath is 2m, reduced to 1.8m on the southern side by a telecom / ESB pole
 - visibility splay to extend back 2.4m from the edge of the road. This is behind the entrance pillars of laneway.
 - applicant’s diagram incorrectly shows visibility splay emanating from in front of the gate pillars.
 - attached report to 3rd party appeal submission “shows a more accurate visibility splay for the development which equates to near 0m visibility”.
 - Note applicant’s suggestion that consequent of speeds less than 30kph being observed along Ardpatrik Road, the visibility splay could be relaxed.
 - Respond that the applicant’s observation is non-scientific, with no backup data. A more substantive, sustained, scientific measurement of speeds is required.
 - Irrespective, the visibility splay is a function of ‘design speed’ (defined term in road design standards), not ‘actual’ speed or ‘posted’ (legal) speed. Assert the design speed of a road of this type is 50kph.
 - Consequently the visibility splay Y-distance should be 45m in accordance with DMURS. Because DMURS is a requirement of the development plan, the applicant’s proposal is in contravention of the Development Plan
 - Emphasise that “applying 45m of double yellow lines to each side of the entrance, and on both sides of the road (required to obtain the swept path for a small car), would create havoc with the existing parking pattern on the road”

- the City Council posting 30kph speed limit signs at entrance to Ardpatrick Road clearly indicates concern by Council at the speed of traffic along the road.
- If yellow lines introduced along the near side of the road to the entrance, parking is likely to move to the other side of the road, thereby further compromising an already challenged swept path by introducing much tighter radii.
- Reference communication from the City Traffic Department as indicating the City’s objective by the introduction of yellow lines at this location, is a measure to prevent blocking the laneway, rather than to improve sightlines.
- Yellow lines covering the entrance only will not improve the near 0m visibility splay from the development. This is contrary to DMURS and therefore contrary to the Dublin City Development Plan 2016-2022

- **Waste Disposal**

- the effected houses along Ardpatrick Road currently move wheelie bins from the rear, along the gated narrow laneway and store them in the laneway on collection day.
- if the development were permitted, all the bins would require placement on the public footpath along Ardpatrick Road, severely impacting its efficacy
- on bin days – 7no. houses X 2no. bins means 14no. bins stored on the footpath close to the laneway, rather than placed within it, off the footpath.
- the proposed development, if permitted, would not only add a further 4no. bins, but also remove the laneway as a storage area for placement of the wheelie bins on bin-day.

6.3.12. Conclusion

- proposed development “is wholly unsuitable in this location”.

- The existing site is small and provides high amenity value to the surrounding houses
- proposed development
 - is unsafe in many respects
 - contravenes Development Plan 2016-2022 'Standards' and 'Guidelines' regarding :
 - access and egress
 - car parking
 - impact on character of the area
 - diminishment of biodiversity
 - lack of sustainable drainage
 - proposed 'double yellow lines' to impact current residents, etc.
 - to be accessed via a narrow laneway,
 - which is in the ownership of a 3rd party
 - which has 2no. existing locked security gates across it, owned by others.
 - due to there being no means of servicing the development, it cannot be taken in charge.
- Mitigations proposed by the applicant do not practically address any of the safety concerns raised in the 3rd party submissions
- Applicant's F.I. submission does not address how cyclists, pedestrians or other vulnerable users, will use the laneway safely.
- Whilst shortage of housing across the country acknowledged, this does not diminish the need to provide safe and complementary development.
- Proposed development is contrary to the provisions of the Dublin City Development Plan 2016-2022, and should be refused.
- Emphasise local residents are trying to be positive about the land use for the area. In this regard they have indicated that a community garden, with pedestrian access only, would be an ideal alternative land use.
- A community garden would –
 - help to increase the sense of community, and serve to keep the area green and productive, and
 - be in compliance with the City Development Plan 2016-2022 provisions regarding 'Green Infrastructure'.

6.3.13. Supplementary report compiled by Eimer Mortimer, 38 Skreen Road, dated 07/05/2019, included with the Tony Mortimer 3rd party appeal

- **Traffic Hazard**

- The revised proposal for development makes no changes regarding access to the site.
- Therefore, the same safety issues are unchanged from the previous refused application.
- The same narrow laneway is proposed to access the site.
- This lane is not in the ownership of the applicant.
- Clarify that pedestrian, residents of the adjacent houses fronting onto Ardpatrick Road use the laneway for access to rear gardens, storage of wheelie bins, etc.
- The lane has 2no. locked security gates along its length, and is not shown as included within the site boundary of the proposed development.
- Emphasise the laneway –
 - is narrow, 3.04m at its “tightest point, not 3.7m as described in the Design Statement”.
 - has no lighting.
- Design statement does not differentiate safe usage of the lane by others, than vehicles.
- Exclusion of provisions for safe access by disabled people, contravenes the City Development Plan 2016-2022, Policy **SN29** particularly.
- Reference report by Tony Mortimer (3rd party appellant, and included with the appeal submission), addressing the traffic hazards and other issues generated consequent of the proposed development.
- By permitting use of the laneway for access, the Planning Authority have ignored the immovable built in obstructions in the laneway (ie. down pipes and window cills).
- Double yellow lines either side of the entrance to the laneway, will remove on street car parking spaces from existing residents.

- Drawings submitted by the applicant restricting the double yellow lines to the front of the entrance only, “has no effect on sightlines at all as cars can be parked up to the end of the lines”.
 - Proposal to manage traffic movements by reversing down the narrow lane “is demonstrably unsafe”.
- **Visual Impact**
 - Whereas the current outlook is onto mature vegetation, “a haven for small birds and wild life”, the proposed development will result in the loss of this peaceful green space, and the destruction of the local character.
 - 16.7.2 Height limits, of the City Development Plan 2016-2022, provides that the proposed development take its design response from the adjacent local contextual neighbourhood
 - Reference the proximity of proposed House A to the rear of No.10 Ardpatrick Road. House A will severely impact the amount of direct sunlight currently enjoyed, thereby negatively impacting the homeowners residential amenity.
- **Loss of Privacy**
 - Reference the City Development Plan 2016-2022 emphasis on the important role ‘privacy’ and ‘sunlight’ have on the residential amenity enjoyed by a property.
 - Proposed detached House A faces directly onto 38 Skreen Road, with the rear facing windows looking into her rear living rooms.
 - The effect of the resultant overlooking will be “unacceptable loss of privacy and a diminution of amenity due to a reluctance to use my exposed kitchen / dining room”.
 - Other adjacent properties will be similarly impacted (Nos 32, 34, 36 and 40 Skreen Road).
 - In total 18no. properties along Ardpatrick Road, Croaghpatrick Road and Skreen Road will be directly impacted by way of loss of privacy.
- **Overdevelopment of the Site**

- 16.4 of the City Development Plan 2016-2022 provides that the proposed development respect the existing character, context and urban form of an area, and seek to protect existing and future residential amenity.
 - the proposed development of houses on this restricted, landlocked site is inappropriate.
 - proposed access laneway is unsafe.
 - 2no. car parking bays are proposed, 1no. for each house. The Development Plan 2016-2022 provides that 1.5 spaces be provided for each house. Therefore 3no. spaces are required to serve the 2-house development.
 - No provision for a turning area has been made onsite, enabling vehicle movements on site. The likely consequence of this will be the overspill of car parking onto Ardpatrick Road, which “is already overparked at peak times”.
 - Emphasise that it is already difficult to move along Ardpatrick Road when vehicles are parked on street, on both sides.
 - The proposed development will worsen this existing problem.
- **Lighting**
 - Contrary to Development plan 2016-2022 policy SI126, the proposed ‘site plan’ does not indicate any road lighting in the development.
 - Currently, the existing laneway is narrow and unlit, making it unsafe for pedestrians and wheelchair users.
 - Should lighting eventually be provided to the backland development, the overspill onto adjacent existing houses would result in “unacceptable light pollution”.
- **Sustainable Drainage**
 - The stated objective of the City Development Plan 2016-2022 at SI03 is “to require all new developments to provide a separate foul and surface water drainage system, and to incorporate sustainable urban drainage systems”.

- Reference the ‘combined sewers’ serving houses along Ardpatrick Road and Skreen Road are already at full capacity. After heavy rains, this can be seen by way of regular overflowing of the local road gullies.
 - Emphasise that the ‘Greenfields’ nature of the application site, in itself, already performs “as a sustainable urban drainage system”. The proposed replacement of the 0.09ha ‘green’ site, with a residential development comprising a site with 64% hard surface, can only result in increased flooding on the local roads.
 - This is in contravention of policy SI18 – ‘Sustainable Urban Drainage Systems’, of the Dublin City Development Plan 2016-2022
- **Conclusion**
 - The proposed development –
 - will have a huge negative impact on the nature and character of the local area,
 - is not compliant with several elements of the City Development Plan 2016-2022, and.
 - would set an undesirable precedent for development, which is incompatible with the established pattern of development and character of the area
 - the siting and size of the development, to be located on a restricted site, would constitute overdevelopment, thereby seriously injuring adjacent amenity of property by way of ‘overbearing impact’ and ‘noise disturbance’
 - the proposed access is unsuitable and unsafe for all users, but in particular ‘vulnerable users’
 - Having regard to the backland nature of the application site, with access proposed from a substandard laneway, the proposed development would endanger public safety by reason of ‘traffic hazard’.
 - The access laneway has not changed from the included within the previous application refused planning permission under ref.**3918/17**. The laneway remains unsafe. What was considered as ‘hazardous’ under ref.**3918/17** cannot now be considered as ‘safe’.

- Recognise the national housing crisis, and consequent pressure on Planning Authorities to deliver housing units. Whilst acknowledging this 'aim', there are instances where this is not appropriate.
Emphasise that the current application to develop the restricted, backland application site with 2no. large dwellinghouses is on such instance.
- Affirm the unsuitability of the proposed development at this location.
- Accordingly, the Planning Authority decision to grant planning permission "was erroneous in this case".

6.4. 3rd Party Grounds of Appeal – Conor O'Mahony & Others (Nos'.9 & 13 Croaghpatrick Road, Navan Road, Dublin 7, dated 07/05/2019) :

The grounds of appeal are set out fully in the documentation dated 07th May 2019, received by the Board date stamped 20th May 2019. These may be summarised as follows :

6.4.1. Trees

- Reference Condition No.4 attached by the City Council to the decision to grant planning permission. This Condition addressed the necessary tree protection measures for trees to be retained on the site and on adjoining lands.
- Clarify that contrary to the 'planning drawings' submitted, the tree branches (understood from trees on their property) spread over the existing sheds.
- Therefore, any demolition of the sheds would contravene this Condition.
- Further, the sheds are built on a concrete base. Therefore, removal of the sheds would damage the root system of the neighbouring trees.
- Proposed "path / road and car parking space" to be built against the end wall of properties between No.9 and No.15, and less the 1m from their trees, would be contrary to Condition No.4.
- Emphasise concern that if branches are cut back at the bottom, this will affect the tree stability during high winds or storms. Branches positively mitigate and protect trees from strong winds. Removal of branches will leave the trees prone to wind damage, which is a 'safety concern'.

- Ultimately fear they would lose their trees altogether. This would expose their property further, to the 2no. imposing new houses to be built closely proximate to their rear boundary walls.

6.4.2. **Privacy**

- House Type B will be within 1m of the boundary wall with Croaghpatrick Road residents. At almost 8m in height, taller than all surrounding existing houses, residents will be left looking at two gable ends, and will be looked over by front windows.
- Emphasise this consequence
 - as an invasion of their privacy, and
 - a stark contrast to the current green space, which contributes to the area being so pleasant to live in.

6.4.3. **Security**

- Emphasise the seriousness of their concern regarding 'Security'
- At present, general accessibility to the backland application site, is restricted by 2no. locked security gates along the extent of the laneway.
- Consequent of the proposed development, the backland space will be opened to anyone, thereby enabling direct access to their rear boundary walls and their properties.

6.4.4. **Safety**

- Serious safety concerns consequent of the proposed access on Ardpatrick Road, have not been satisfactorily addressed by the applicant.
- Children play on Ardpatrick Road. Visibility available from the proposed access laneway is not safe for entry and exit vehicle movements.
- Existing composition of the access laneway restricts driver visibility of pedestrians on the move as they try to enter and exit.
- The substandard visibility along and from the laneway, places particularly children and older residents at risk.

6.4.5. **Wildlife**

- The backlands application site is currently home to ‘wild animals’ (ie. bats, foxes and badger)
- Such a wild space in an urban setting is a rarity.
- Urban ‘wild spaces’ should be encouraged, not eradicated.

6.5. Applicants Response – Anthony Dwyer c/o P. Ward (No.158 Beechpark, Lucan, Co. Dublin, dated 16/06/2019) :

The response submission is fully in the documentation dated 16th June 2019, received by the Board date stamped 17th June 2019. These may be summarised as follows :

6.5.1. Access / Hazard

- Comment that the lane between Ardpatrick Road and the application site is owned by a 3rd Party.
- Applicant confirms, as per planning application documentation, that he “has a ‘right of way’ across this lane, and the gates on it”.
- Confirm applicant is “satisfied in terms of ownership”.
- Reference Section 34(13) of the Planning and Development Act 2000 (as amended) provides that “A person shall not be entitled solely by reason of a permission under this Section to carry out any development”.
- A grant of permission therefore does not confer the legal right to implement a development
- Any disputes regarding ‘ownership’ and ‘rights of way’ are a civil matter, and therefore should not have a bearing on this planning decision.
- Distinguish that the scale of development proposed on the application site has been reduced from that refused planning permission under the previous application (ref.3918/17). Together with the provision of 1no. on-site car parking space per new house proposed, argue that the potential for 2-way traffic movements on the access laneway has been significantly reduced.
- In addition, the applicant has also proposed measures towards management of traffic movements along the access laneway, whereby “priority will be given to incoming vehicles, and thereby avoid situations where vehicles are reversing out onto Ardpatrick Road.

- Reference applicant's F.I. response to Planning Authority directive 3A.
- Reference the City Council 'Roads, Streets and Traffic Department's' agreement with the applicants proposed access arrangements.

6.5.2. **Inadequate Access for vehicular, waste, fire and emergency services**

- The 'FISCA' report included as part of the 3rd party appeal submission documentation, states that the front doors of the proposed houses are 56.4m from the centreline of Ardpatrick Road. Clarify that this is not the case. Rather, both front doors are within 45m of Ardpatrick Road.
- The applicant's F.I. response references that Section 5.4.2 of Part B Volume 2 sets out that 'fire brigade appliances' to be within 45m of the principal entrance to the dwellinghouse. Clarify that the entrances to both proposed houses are within 45m of Ardpatrick Road. Consequently, "fire tender access is not required within the site, or via the laneway between Ardpatrick Road and the site".
- Should proximity of the nearest fire hydrant be deemed too far from the proposed development, a new fire hydrant could be installed onsite, in agreement with City Council.
- Notwithstanding, the above is a matter for 'Building Control', and should not have a bearing on the 3rd party appeals.

6.5.3. **Increased Traffic and insufficient Car Parking causing Traffic Hazard**

- With 76no. houses currently along Ardpatrick Road, the proposed development (2no. houses) would mean an increase of less than 3% in traffic generated.
- This is a minimal increase in traffic onto Ardpatrick Road, and would not give rise to traffic hazard.
- One (1no.) on-site car parking space is proposed for each house.
- Having regard to proximity to the City Centre and to a 'Bus Corridor', consider it unlikely that a 2nd car space would be required for each house.
- Reference that car ownership ratio within Dublin City is 0.9 per household, whilst along Ardpatrick Road it is 1:2.

- Should visitors to proposed houses require car parking on Ardpatrick Road, they would use the existing shared on-street car parking spaces on Ardpatrick Road itself.
- This would constitute a minimal increase in the use of the shared on-street car parking, and would not give rise to traffic hazard.

6.5.4. **Provision of Double Yellow Lines Unreasonable**

- Reference the F.I. response to 'Directive 3B'
- Affirm the applicants argument for the provision of double yellow lines only at the front of the laneway access (refer to Option 4)
- Applicant is happy to consult with the City Council during the detailed design stage, and agree with Council any minor amendments deemed necessary.

6.5.5. **Backland Development**

- Infill development of backland sites is supported by national and local planning policy.
- The height, massing and design of the proposed houses are in keeping with the surrounding houses.

6.5.6. **Design / Overbearing / Loss of Amenity and Privacy**

- The design and siting of the proposed houses
 - do not impinge on the residential or visual amenities of the area, and
 - do not result in undue overshadowing, overlooking or have an overbearing impact on neighbouring properties.

6.5.7. **Overlooking**

- The applicant has reconfigured the plans for both 'House Types' so as to address any overlooking concerns.
- Reference applicant's F.I. submission response to 'Directive 1'.
- Neither house has a 1st floor rear window, unobscured, overlooking their own rear garden space, and therefore, the rear gardens of any of the surrounding properties.

6.5.8. **Failure to Adhere to Design Principles**

- Emphasise both proposed houses reach and exceed the space requirements and room sizes, as set out in the DEHLG document – “Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities”.
- The private amenity space provided for each house far exceeds the minimum requirements set out in the City Development Plan 2016-2022

6.5.9. **Impact on Daylight, Sunlight and Comfortable Use**

- The proposed development would not result in undue overshadowing, or unduly impact on daylight and sunlight to the surrounding houses.

6.5.10. **Other Use for the Backland Site**

- In terms of the City Development plan 2016-2022, the site is Zoned ‘Z1’. The ‘Z1’ Zoning Objective is “to protect, provide and improve residential amenities”.
- The use of backland sites for residential development is supported by National, Regional and Local planning policy.
- proposed use of the site is, “therefore, appropriate and consistent with planning policy objectives”.

6.6. **Applicants Response – Anthony Dwyer c/o P. Ward (No.158 Beechpark, Lucan, Co. Dublin, dated 20/06/2019) :**

The response submission is fully in the documentation dated 20th June 2019, received by the Board date stamped 21st June 2019. These may be summarised as follows :

6.6.1. **Previous Decision on the Development**

- Distinguish that the scale of development proposed on the application site has been reduced from that refused planning permission under the previous application (ref.3918/17). Together with the provision of 1no. on-site car parking space per new house proposed, argue that the potential for 2-way traffic movements on the access laneway has been significantly reduced.

- In addition, the applicant has also proposed measures towards management of traffic movements along the access laneway, whereby “priority will be given to incoming vehicles, and thereby avoid situations where vehicles are reversing out onto Ardpatrick Road.
- Reference applicant’s F.I. response to Planning Authority directive 3A.
- Reference the City Council ‘Roads, Streets and Traffic Department’s’ agreement with the applicants proposed access arrangements.

6.6.2. **Lack Ownership**

- Comment that the lane between Ardpatrick Road and the application site is owned by a 3rd Party.
- Applicant confirms, as per planning application documentation, that he “has a ‘right of way’ across this lane, and the gates on it”.
- Confirm applicant is “satisfied in terms of ownership”.
- Reference Section 34(13) of the Planning and Development Act 2000 (as amended) provides that “A person shall not be entitled solely by reason of a permission under this Section to carry out any development”.
- A grant of permission therefore does not confer the legal right to implement a development
- Any disputes regarding ‘ownership’ and ‘rights of way’ are a civil matter, and therefore should not have a bearing on this planning decision.

6.6.3. **Width of Laneway**

- Emphasise that “the tracking drawings issued as part of the F.I. response will work with the dimensions of the laneway as per the survey issued as part of the appeal documents”.
- The applicant’s F.I. response references that Section 5.4.2 of Part B Volume 2 sets out that ‘fire brigade appliances’ to be within 45m of the principal entrance to the dwellinghouse. Clarify that the entrances to both proposed houses are within 45m of Ardpatrick Road. Consequently, “fire tender access is not required within the site, or via the laneway between Ardpatrick Road and the site”.
- The applicants F.I. response proposes that on refuse collection days residents of the proposed development would wheel their ‘bins’ down the laneway to

Ardpatrick Road, where their refuse would be picked up as it is for the existing residents on Ardpatrick Road.

- This 'protocol' for refuse / waste removal would avoid the need for refuse trucks to move down the laneway to pickup waste on-site.

6.6.4. **Overlooking**

- Applicant has reconfigured the 'plans' for both the proposed 'House Types' so as to address any 'overlooking' concerns.
- Reference applicant's F.I. response to Planning Authority's 'Directive 1'.
- Neither house has a 1st floor rear window, unobscured, overlooking their own rear garden space, and therefore, the rear gardens of any of the surrounding properties

6.6.5. **Demolition of Sheds without Impacting the Trees**

- The existing sheds can be demolished without damaging the existing trees surrounding the site.

6.6.6. **Signage and Management of the Laneway**

- Clarify the signage and road markings as set out in the F.I. response, are proposed in order to provide safe access by indicating to motorists how best to use the laneway.
- Therefore all motorists will be aware that priority is given to incoming motorists, thereby avoiding situation where vehicles are reversing onto Ardpatrick Road.
- While the proposed regulatory signage cannot be enforced by '*An Garda Siochana*', the low number of vehicles to be using the laneway, and the 'slow speed environment in a neighbourhood area means that the laneway will be self-regulating with no need for it to be enforced by the Gardai.
- The Signage will be reflective. Therefore, signage will be visible at night, reflecting off vehicle 'headlights'.
- Emphasise applicants acknowledgement of reduced safety consequent of reversing movements out onto the public footpath and Ardpatrick Road (as per the HAS Guidance). Therefore, applicant proposes appropriate 'signage'

to ensure that reversing vehicle movements out of the laneway are avoided / minimised.

- Reference applicant's observations locally, that "the majority of residents reverse out of their driveways, resulting in reduced visibility between the driver and the main road". However, there is no record of any collisions on Ardpatrick Road, as recorded by the 'Road Safety Authority'.
- Incoming vehicles do not have to have commenced turning movements into the laneway, in order to see vehicles exiting from it.
- In response to 3rd party appellants arguments to the contrary, applicant sustains the opinion derived from the 'swept path analysis', that the 'autotrack' vehicle movements "would be achievable even if there were cars parked on both sides of the road carriageway".
- Clarify that motorists typically park up on the footpaths on either side of Ardpatrick Road, leaving sufficient carriageway width to enable entry and exit vehicle movements in and out of the laneway.
- as a shared space laneway, motorists will be expected to proceed with caution, and to give pedestrians priority.
- Having regard to de facto slow speeds locally, and to the low levels of traffic anticipated from the proposed development, no road safety hazard will result.
- Proposed signage will ensure that all motorists are aware of the priority control for the laneway. Drivers will be neighbours. Therefore common courtesy anticipated, and that vehicular movements "will be self-regulating, ensuring a safe road environment for families and neighbours".

6.6.7. **Visibility Splay and Yellow Line Provision**

- Confirm applicant proposes to maximise visibility at the proposed access laneway, as requested by the City Council.
- Audit of the range of 'visibility splays' possible was undertaken in accordance with the 'Design Manual for Urban Roads and Streets' (DMURS).
- Assert motorists are not driving Ardpatrick Road above the posted speed limit of 30km/h, and certainly not to the suggested design speed of 50km/h.
- Emphasise the existing visibility from the access laneway is similar to that at any of the existing homes along Ardpatrick Road, and with the same

impairments to residents visibility (ie. same footpath width, walls, pillars or hedges)

- In addition, most residents were noted to reverse out of their driveways.
- Proposed development has a significant safety improvement, when compared to others, in that motorists will always exit the laneway in a forward direction. This will result in improved inter-visibility between exiting drivers and motorists / pedestrians moving along Ardpatrik Road.
- Emphasise on-street car parking as the principal restriction to sightline visibility from the proposed entry / exit point.
- However, also reference on-street car parking as an effective traffic calming measure (re. Section 4.4.9 of DMURS).
- With respect to 'forward visibility' , DMURS and the 'manual for Streets' both note that reducing forward visibility is an "effective measure used to increase driver caution and to reduce speeds".
- Specifically, Ardpatrik Road is conducive to lower speeds, "due to its residential nature, narrow carriageway, and the presence of on-street car parking".
- Weighted reference to decision made by An Bord Pleanala under **ABP-301940-18**, granting planning permission for a housing development (24no. apartment units), "to be accessed via an existing laneway). In this case, exit visibility is restricted by on-street car parking.

The 'Inspectors Report' noted the sightline visibility restriction due to on-street car parking. However, commented that "potentially the removal of these car parking spaces could negatively impact on traffic safety as motorists could potentially be less cautious at this junction".

- under **ABP-301940-18**, if Church Street compared to Ardpatrik Road as busier, with larger traffic volumes, and where at the traffic calming influence of on-street car parking considered as effective at a busier junction, "it should also be appropriate at a low speed environment such as Ardpatrik Road".
- Applicant's proposed double yellow lines, as requested by the City Council, will result in greater visibility at the proposed entry / exit point at the laneway, than at the other driveways along Ardpatrik Road.
- Having regard to
 - the nature of the road environment,

- the slow speeds along Ardpatrik Road, due to existing on-street car parking, and
- the precedent set due to the Boards decision under **ABP-301940-18**, consider that ‘double yellow lines’ in front of the laneway will ensure that a safe access junction is provided.
- Consider that the double yellow lines in front of the laneway, “will ensure that a safe access junction is provided”.
 - Reference applicant’s –
 - liaison with the City ‘Roads’ Officials
 - willingness to provide any of the proposed ‘double yellow line’ options, submitted as F.I., “as per the direction of the Board”.

Further minor amendments to the proposed ‘double yellow lines’ can be addressed during detailed design or construction stages.

6.7. Planning Authority Responses

6.7.1. None.

6.8. Observations

6.8.1. **CASS Residents Association** (c/o 23 Ardpatrik Road, 13/06/2019)

Clarify representative of the residents of Croaghpatrick Road, Ardpatrik Road, Skreen Road and Slemish Road, respectively. Submit the following issues –

- The decision to grant planning permission is contrary to regulations and best practice. Weighted reference to the ‘Road Report’ by Mr t. Mortimer, and to the ‘Fire Report’ by P. Gleeson, A. Cleary and Others.
- The decision to grant planning permission, is contrary to Council’s previous refusal decision on the site (ref.**3918/17**). The stated Refusal reason’ regarding threat to public safety by reason of traffic hazard, is still relevant under the current application. Emphasise the dangers identifies previously, “are exactly the same now”.
- CASS Residents comments in response to the Council’s Further Information’ (F.I.) request as follows –
 - Whereas Council explicitly suggested the possibility of needing ‘double yellow lines either side of the accessway, in order to achieve adequate

- sightline visibility, the CASS residents are totally opposed to residents not being permitted to park outside their own houses on Ardpatrick Road. Emphasise that some have lived there for over 60years.
- Reference the 3rd party appeal by Mr T. Mortimer as demonstrating the 'swept-path analysis' submitted by the applicant as being completely flawed.
 - Confirm review also of the applicants 'composite drawing' submitted (ref.00764453.pdf, Drawing 1 and 5). These maps have completely disregarded the parking of motor vehicles outside the houses opposite the access lane. This is clearly illustrated in the drawings included at Annex A to the CASS Residents Association Observation submission. Emphasise these drawings as clearly showing the inadequacy of the analysis supplied by the applicant.
 - The sightlines submitted by the applicant fail to have regard to the parked cars on either side of the access lane.
- Assert that much of the applicant's submission and therefore the Councils decision "were based on inaccurate measurements of the access lane". CASS Residents verify the minimum width of the lane, to be just over 3.0m at its narrowest. This is consistent with the engineering survey submitted by Mr D. Kennedy and Others.
 - None of the 'additional information' (A.I.) requested by the Planning Authority, or that supplied by the applicant, adequately addressed the implications of the double sets of locked gates securing the access lane onto the site. CASS Residents confirm –
 - the gates have been in place for over 25years
 - all current keyholders (ie. residents with direct access to the lane) will sustain current arrangements regarding maintenance of security and safety (ie. keeping both sets of gates in place and locked at all times).
 - assert the applicant has equal rights of access to the lane, but has no authority, nor will authority be allowed for the removal of the gates. Nor has the applicant authority to prevent residents locking the gates, as not doing so would negatively impact on their security.
 - point out the safety implication and impracticality of motor vehicles, before entering the access laneway, having to park across the footpath, unlock and

open both sets of gates, entering the site, and then returning to resecure / relock the gates.

- Whilst the Planning Authority requested, and the applicant supplied “2 allocated parking spaces for 2 new houses”, with a combined total of 7no. bedrooms and potential for letting of the proposed new properties, “it is not inconceivable that there could be up to 7no. cars belonging to new residents”.
- on street car parking capacity along Ardpatrick Road is already challenged, with some houses some houses having up to 5no. cars for their adult families. Increasing demand for on-street car parking, consequent of the proposed development, would have a serious negative impact on existing residential amenity.
- confirm –
 - willingness of local residents to engage with the applicant as to the consideration of alternative uses for the site, particularly within an environmental friendly context.
 - a group of local residents that would be willing to purchase the site from the applicant to pursue this objective.
- Urge that the Board “support the appeals and refuse planning permission, primarily on safety grounds, but also in recognition of the alternative and environmentally positive uses the site could be put to”.

6.8.2. Joan O’Connor and Leeson Egan (c/o 15 Croaghpatrick Road, 06/06/2019)

- Endorse the 3rd party appeal lodged by their “*neighbours on Croaghpatrick Road*”
- The proposed almost 8.0m high dwellinghouses, “are too tall”, and not in keeping with the surrounding houses.
- Where now there is open space, the proposed Development would extend above their trees at the end of their domestic gardens, with the outlook being directly onto 2no. gable end walls.
- Having regard to separation distance, concern at the threat to their residential amenity, consequent of overlooking and loss of privacy.
- Concern proposed development would be visually overbearing, and would result in threat to their security

- Construction works would result in the loss of trees at the end of their domestic gardens. This would result in greater exposure to the proposed large dwellinghouses.
- Clarify at present, the application site / 'backlands' are secured by 2no. sets of gates with only local residents having keys. The proposed development would open up the 'backlands', with increased accessibility to the rear of surrounding properties, particularly at night, with consequent threat to security.
- The 'backlands' green area is great for wild life habitat. It would be unfortunate to lose this area for "an unsuitable development".

7.0 Assessment

7.1. I have examined the file and available planning history, considered the prevailing local and national policies, inspected the site and assessed the proposal and all of the submissions. The following assessment covers the points made in the appeal submissions, and also encapsulates my de novo consideration of the application. The relevant planning issues relate to :

- Planning History of the Application Site
- Principle and Location of the proposed development
- Visual Amenity Impact : Townscape / Streetscape
- Residential Amenity Impact
- Road Access and Traffic Safety
- Land – Legal Issues : Use of the c.30m Narrow Accessway
- Appropriate Assessment.

7.2. Planning History of the Application Site :

7.2.1. I have taken careful note of the planning history of the application site, and that apparent of the proximate environs. The relevant planning history documentation has been submitted by the Planning Authority, and may be found on the appeal file (see ref.3918/17).

Having preliminary regard to the 'Z1 – Sustainable Residential Neighbourhoods' Zoning Objective, and to the relevant provisions of Section 16.10.8 and 16.10.10 of the Dublin City Development 2016-2022, I have no objection 'in principle', to the proposed residential development of the 'backland', 'infill' application site. I am of the opinion however, notwithstanding this planning history, that each case must be considered on its own merits, and that the current application be deemed a new application.

- 7.2.2. However, as acknowledged and emphasised by both the Planning Authority and the 3rd Party Appellants, this contextual residential neighbourhood at Ashtown, D7 has a distinctive built character, pattern of development and associated amenity, which requires careful maintenance. The current proposed development itself, as acknowledged by the Planning Authority in the deputy planning officers reports, challenges the existing structure and pattern of development, and associated character. Notwithstanding the need to consider each application on its individual merits, I believe that the permission historically refused on the application site (ref.3918/17), provides a benchmark or reference against which the merits of the current application may be measured for its compliance with prevailing statutory planning and development frameworks, which facilitate and enable the proper planning and sustainable development of the area.

7.3. Principle and Location of the proposed development

- 7.3.1. Public policy advocates that residential development driven by urban areas should take place, as a general principle, within the built-up urban areas and on lands identified through the Development Plan process, for integrated, serviced and sustainable development. In the case of the current application, this context is provided for by the Dublin City Development Plan 2016-2022 in particular, which sets out the way forward for the urban growth and development of Dublin City
- 7.3.2. The application site is zoned "Z1 – Sustainable Residential Neighbourhoods", with the objective to protect, provide and improve residential amenity. The applicable zoning matrix designates residential land use as being permitted in principle within the zone. The "Z1" zoning objective therefore seeks to ensure that any new

development within existing neighbourhoods has minimal impact on, and enhances existing residential amenity.

7.3.3. If the Dublin City Development Plan 2016-2022 is intended as providing the way forward for the proper planning and sustainable development of the area, then the application site must be regarded as being appropriately located within residentially zoned (ie: 'Z1 – Sustainable Residential Neighbourhoods') and serviced lands within Ashtown, Dublin 7

7.3.4. The challenge, having regard to the proposed architectural and planning design, and the proposed layout of development on the triangular shaped, 'backland' application site, together with the relevant requirements of the Dublin City Development Plan 2016-2022, is to ensure the proposed 2no. 2-storey dwellinghouse development, has no disproportionate and unacceptable adverse impact on the existing residential development and associated amenities enjoyed by the adjacent neighbours along all 3no. boundaries of the application site, and who's properties front away from the application site onto Ardpatrik Road, Skreen Road and Croaghpatrick Roads respectively.

7.4. Visual Amenity Impact : Townscape / Streetscape

7.4.1. I have taken note of the established scale and pattern of residential development in the area. All of the Ardpatrik Road, Skreen Road and Croaghpatrick Road frontages are characterised by rows of 2-storey terraces fronting onto each of the roads respectively, with deep rear yards / gardens sharing respective boundaries with the triangular shaped application site. The sense of place of this neighbourhood is clearly influenced by the density and pattern of residential development, and by the architectural style, design, and general finishing of the existing houses, all set in a local topographical and environmental context (see photographs attached taken at the time of physical inspection).

7.4.2. Whilst acknowledging that no preservation or protection status has been designated in terms of the Dublin City Development Plan 2016-2022, I have empathy with the approach apparent by the Planning Authority and emphasised by the 3rd party

appellants regarding the need for careful maintenance and preservation of this unique townscape. I note that the threat of negative visual impact on this local townscape, was a principal consideration informing the historical decision to refuse planning permission under ref. **3918/17** (see 4.0 above).

7.4.3. With respect to the Croaghpatrick and Skreen Road frontages respectively, in the vicinity of the application site, what is clear in my view, is that as one moves along these roads, no reasonable visibility is possible at all, of the rear of any of the 2-storey houses, including those of the 3rd party appellants at Nos. 9 and 13 Croaghpatrick Road and No.38 Skreen Road respectively, adjacent and to the north and east respectively of the application site. Accordingly, no visibility of the application site from each of Croaghpatrick and Skreen Roads respectively, is possible at all.

7.4.4. Similarly, no reasonable visibility is possible of the rear of the 2-storey houses fronting onto Ardpatrick Road, including those of the 3rd party appellants at Nos. 8 and 10 Ardpatrick Road respectively, adjacent and to the south of the application site. Accordingly, no reasonable visibility of the application site is generally possible from Ardpatrick Road.

7.4.5. However, in proximity to the road frontages of No.10 and 12 Ardpatrick Road respectively, a long-distance view of the application site at the northern end of the narrow accessway between Nos.10 and 12 Ardpatrick Road is possible. However, in my view, direct reasonable visibility of either, or both, of the 2no. 2-storey dwellinghouses proposed would not be obviously possible, having regard to the c.30m long narrow (ie. c.4.0m average width) accessway itself, defined by the exposed gable end exterior walls of Nos.10 and 12 Ardpatrick Road respectively, restricting visibility of the application site to the narrow gap between the 2-storey houses, and that each of proposed House Type 'A' and House Type 'B' are to be spatially positioned on site, to the west and east of the entrance onto the site, and behind the 2-storey dwellinghouses fronting onto Ardpatrick Roads at Nos. 10 and 12 (see photographs no. attached, taken at the time of physical inspection).

- 7.4.6. From the rear however, intervisibility is restricted to the rear elevations and rear yards / gardens of the adjacent properties to the north, east and south. Contextually, surrounding residential development comprising terraces of 2-storey dwellinghouses, appears in accordance with relevant City Development Plan 2016-2022 Standards.
- 7.4.7. Sections 16.10.8 – ‘Backland Development’ and 16.10.10 – ‘Infill Housing’ of the City Development Plan 2016-2022, provide that the development of underutilised infill sites within existing residential areas, such as the ‘backland’ application site, is generally encouraged. Noteworthy in this regard is the development objective sustained throughout the Development Plan 2016-2022, emphasising the need to make the most sustainable use of land and existing urban infrastructure.

However, a balance is needed between the protection of existing amenities, privacy and the established character of the local Ashtown area, and the proposed new modest residential infill development. Towards this end I note that Section 16.10.10 – ‘Infill Housing’ sets out that ‘Infill Housing’ should : “Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings”.

- 7.4.8. Notwithstanding the above, I note the consistent argument made by all of the 3rd Party Appellants and the Observers’, against the urban residential development of this backland, infill site. Rather, the argument is made for the retention of the site as a local community ‘open’ / ‘amenity’ space, or as an opportunity for local community based ‘allotments’. Having regard to these arguments made by the 3rd party appellants, whilst I acknowledge the existing *de-facto* role the application site plays as a passive green space, I believe that change to the current status, by the sites residential development in terms of the ‘Z1 – Sustainable Residential Neighbourhoods’ Zoning Objective is to be expected. However, as referenced above, the challenge is to ensure the protection and improvement of existing amenities – primarily those of residents who’s properties front away from the application site onto Ardpatrik Road, Skreen Road and Croaghpatrick Road respectively, and who share their rear property boundaries with the application site,

whilst providing for new such amenities for anticipated residents of the proposed development.

In respect of perceived threat of visual intrusion associated with the resultant urban residential development of the site, I again reference the context of the inevitability of the 'Z1 – Sustainable Residential Neighbourhoods' Zoning Objective, and the range of land uses permitted. I am of the viewpoint that subject to there being no serious, disproportionate negative impact on the existing visual and residential amenity, change and intensification of development of 'Z1' zoned lands must be expected. This in my view is the challenge facing adjacent residents to the south, east and north, and who include the 3rd party appellants and the Observers.

- 7.4.9. Whereas planning permission was previously refused for 4no. 2-storey dwellinghouses on the application site under ref. **3918/17**, and with serious injury to surrounding visual amenity consequent of overdevelopment of the site substantiating a primary element of the Planning Authority's then stated 'Refusal Reason', the current application is for a reduced 2no. 2-storey dwellinghouses, each occupying the northwest and southeast half of the site, and facing inwards towards one another.

In my view, the unique site configuration and backland location influenced the site layout of development and prescribed that single, detached houses were the most feasible and practical for the residential development of the site.

- 7.4.10. Having regard to the architectural design drawings and site layout details submitted, I note that the ground to roof height levels of each house proposed are comparable to the surrounding roof height levels of the adjacent 2-storey terraces of which the Ardpatrick Road houses would be the closest, having the shortest depth of rear yard / gardens compared to those of Skreen Road and Croaghpatrick Road respectively. In my view however, reasonable mitigation of visual impact has been achieved by the positioning of each of the side elevations to face toward the rear gardens of the Ardpatrick Road houses. The corresponding northeast facing side elevation facing obliquely towards the deep rear yards / gardens of the Croaghpatrick Road

properties pose no serious or disproportionate threat of visual overbearing and obtrusion impact. Whilst the nearest point of the northeast facing elevation of proposed 'House Type B' may be c.2.0m, I believe that reasonable mitigation of threat of visual impact is made possible due to the generous depth of the rear gardens of the Croaghpatrick Road properties.

Notwithstanding the wider, 2-storey rear elevation of proposed 'House Type A' facing south-eastward towards the rear gardens of the Skreen Road properties, I believe that similar relief is available due to the generous depth of the rear gardens. The fact that all of the domestic rear gardens of the Ardpark Road, Skreen Road and Croaghpatrick Road are also well established with planting and landscaping, in my view further successfully screens visibility of the proposed 2no. 2-storey houses (see photographs attached, taken at the time of physical inspection).

In fact, the existing trees comprising part of the attractive amenity of the deep rear gardens of the Croaghpatrick Road properties comprise an important screening element in this regard, as do those positioned on the application site. Understandably, the concerns of the 3rd party appellants at Nos. 9 and 13 Croaghpatrick Road are such that no negative impact or harm come to these trees consequent of the proposed development. Assurance in this regard is reasonably made consequent of the applicants F.I. commitment to the protection of all existing mature trees on site, but more importantly those comprising feature elements of the rear boundaries of all surrounding properties, and particularly those of the Croaghpatrick Road properties. I note that the Planning Authority has attached a specific Condition towards this end, to its Decision to grant planning permission.

7.4.11. A consequent visual impact must logically and reasonably be expected of any residential development on the application site. This cannot be avoided, subject to compliance with the Dublin City Development Plan 2016-2022. In my view, application of the provisions of the City Development Plan 2016-2016-2022, should be towards positively enabling reasonable residential development, whilst protecting residential amenities both of individual property owners, as well as collectively within the local Ashtown neighbourhood. This outcome is the reasonable expectation of

the 'Z1 – Sustainable Residential Neighbourhoods' Zoning Objective. Having regard to the above considerations, I believe this has reasonably been demonstrated by the applicant in compliance with the provisions of the City Development Plan 2016-2022.

7.4.12. Having regard to the architectural design details submitted, and noting the revisions submitted in response to the Planning Authority's F.I. request, the proposed modest 2no. 2-storey dwellinghouse development –

- will not be disproportionately visually prominent or obtrusive to adjacent and nearby residents,
- would have no disproportionate impact on the established character and associated amenity enjoyed within the local Ardpark Road, Skreen Road and Croaghpatrick Road neighbourhood generally, and of adjacent properties specifically,
- has demonstrated satisfactory compliance with the relevant provisions of the Dublin City Development Plan 2016-2022, and

subject to relevant Conditions, would be in accordance with the proper planning and sustainable development of the area.

7.5. Residential Amenity Impact

7.5.1. Residential amenity values refer to those natural or physical qualities and characteristics of the local Ashtown neighbourhood, that contribute to the residents appreciation of its pleasantness, liveability and its functional and aesthetic coherence. The 3rd party appellants and the 'Observers' understandably want to protect this local amenity, which in my view is supported by the designated 'Z1 – Sustainable Residential Neighbourhoods' zoning objective. The 'Z1' zoning objective over these lands does however enable change, and the inevitable increased intensity of suburban residential land use, which requires responsible management in the public good. I believe that the proposed modest sub-urban residential development (ie. 2no. 2-storey detached dwellinghouses) will have no serious, disproportionate negative impact on this prevailing residential amenity, and would in itself enable a satisfactory level of amenity for future new residents, of the 2no. houses themselves.

7.5.2. In substantiating this viewpoint I have had regard to specific potential negative residential amenity impacts, as follows :

Visual Amenity – Townscape / Streetscape :

- I consider this to be the case having regard to the discussion of the impact of the proposed development on the prevailing visual amenity, the contextual townscape of Ashtown, and the local streetscape at 7.4 above, which in my view would not seriously or disproportionately, negatively influence the character and quality of the contextual residential amenity enjoyed in the local neighbourhood.
- Further, ‘Views’ and ‘Aspects’ enjoyed by the residents of the surrounding predominantly 2-storey terraced houses are not threatened nor impaired, nor do any such designations exist in the local area. As discussed at 7.4 above, the site is not visible at all from the surrounding local road network, and only marginally so from Ardpatrick Road, between end of terrace houses No.10 and 12, where I affirm the view that no serious or disproportionate negative impact on the prevailing townscape and associated visual amenity would result

Noise :

- There is understandably an existing ambient noise level prevalent, which derives from the spatial relationship of the adjacent existing Ardpatrick Road, Skreen Road and Croaghpatrick Road residential communities, to the range of land uses and activities normally associated with a sub-urban environment. I do not believe that levels of noise externality which may result from the proposed residential development will be substantially greater than the existing ambient noise levels, or those noise levels reasonably to be expected of a built up compact, sub-urban area such as Ashtown, within ‘North-West’, Dublin City.

Overshadowing / Loss of Natural Light :

- Whilst located generally, to the southwest, northwest and northeast of the Croaghpatrick Road, Skreen Road and Ardpatrick Road residents

respectively, having regard to the 2no. 2-storey detached houses proposed, their footprints on the application site, and separation distances from the respective nearest existing 2-storey terraces, I believe that no direct threat of overshadowing and consequent loss of natural light will result from the proposed development

Internal Living Space :

- In respect of the need for proper internal space planning which ensures adequate standards in relation to overall dwelling and individual room sizes, I am of the opinion that as proposed, a generous standard of accommodation will be provided, with enough space for the requirements of modern households in this sector. Satisfactory compliance with Sections 16.10.2 and 16.10.3 – ‘Residential Quality Standards – Houses’ of the City Development Plan 2016-2022 has been achieved.

Overlooking / Loss of Privacy :

- Privacy or a freedom from observation is a basic qualitative aspect of residential design, and which is acknowledged within the Dublin City Development Plan 2016-2022. The ‘Residential Quality Standards’ set out at Sections 16.10.2 and 16.10.3 seek to ensure that housing layouts achieve reasonable levels of such privacy, both internally and in relation to the adjoining existing built environment. In this regard, I believe that the proposed development would not threaten the levels of privacy currently enjoyed by the surrounding adjacent residents along Ardpatrick, Skreen and Croaghpatrick Roads respectively. I express the viewpoint having regard to :
 - the 2no. 2-storey dwellinghouses proposed,
 - their respective footprints and orientation on the application site,
 - the finished floor levels proposed,
 - that generous separation distances exist with the majority of the rear elevations of surrounding existing houses being at an oblique angle to the respective rear elevations of each of proposed House Types ‘A’ and ‘B’ (The notable exception in this regard are the house fronting onto Skreen Road to the southeast of proposed House Type ‘A’, where a generous separation distance exceeding the 22m Standard exists),

- that consequent of the Planning Authority's F.I. request, the applicant has amended the internal living space layout and associated fenestration such that no outlook will be possible at all from the 1st floor rear elevations of both proposed House Types 'A' and 'B',
- that each of the rear gardens of the surrounding properties are generally well established, comprising boundary treatments, hard and soft landscaping, and mature shrubs and trees, all of which screen the respective gardens and rear facing living rooms from the threat of loss of privacy by way of overlooking, and
- that appropriate boundary treatments, with landscaping, planting and measures for the protection of existing trees on and off site has been proposed and subsequently Conditioned by the Planning Authority, attached to the Decision to grant planning permission. Assurance of such would also be included, should the Board be inclined to a grant of planning permission.
- In my view, the arguments made against the proposed development in this regard cannot be sustained.

Private Amenity / Leisure Space :

- Section 16.10.2 – 'Residential Quality Standards – Houses' emphasises 'private open space' as an important element of residential amenity. Private open space for houses is usually provided by way of private gardens to the rear or side of a house. A minimum standard of 10m² of private open space, per bedspace, will normally be applied, with up to 60-70m² of rear garden area considered as sufficient for houses in the city.
- Consequent of the proposed development, I note an area of c.305m² and c.150m² respectively, will be available to proposed House Type 'A' – 4no. bedrooms and House Type 'B' – 3no. bedrooms.
- Both adequate and usable private amenity space has been provided to serve each of the 2no. 2-storey dwellinghouses proposed. I do note the outline shape of each of the areas of private amenity space provided (ie. triangular, and depth vs breadth). Notwithstanding, I note the areas proposed generously exceed the 60-70m² 'Standard' of rear garden area considered as

sufficient for houses in Dublin City (Section 16.10.2). A rear private amenity area of good utility and amenity value is thereby ensured.

- Further, having regard to adjacent contextual residential development, I believe that no serious negative impact will result on adjacent domestic amenity spaces.

Public Open Space :

- I acknowledge the existing *de-facto* role the application site plays locally, as a passive green space. I affirm however that change to the current status, by the sites residential development in terms of the 'Z1' Zoning Objective is to be expected, with inevitable potential for impact on the existing surrounding residential amenity.
- Having regard to the triangular, c.939m² application site, and the proposal to construct a correspondingly, small, modest, 2no. 2-storey dwellinghouse development, no 'public open space' has been proposed. This, in contrast to the *de-facto* role referenced above played by the site locally to date.
- I note that Section 16.10.3 – 'Public Open Space' of the City Development Plan 2016-2022 provides for circumstances such as this, in as much as it enables the Planning Authority to require an equivalent financial contribution in lieu of 'public open space' provision, in smaller developments, where the 'public open space' generated by the development would be so small, or the site constrained so as to not be viable for on-site provision. In instances such as this, I note Section 16.10.3 further enables such that where the Planning Authority considers that having regard to existing provision in the vicinity, the needs of the population would rather be better served by the provision of a new public amenity in the local area, "financial contributions may be proposed towards the provision and enhancement of open space and landscape in the locality, as set out in the City Council Parks Programme, in fulfilment of this objective".
- I am satisfied that this be addressed by way of Condition, should the Board be mindful to grant planning permission in this instance.

On-Site Car Parking :

- Capacity for adequate onsite car parking space has been provided within the curtilage of each new proposed property, in satisfactory compliance with City Development Plan 2016-2022 Standards (ie. Section 16.38 – ‘Car Parking Standards’, Table 16.1 – ‘Maximum Car Parking Standards’).
- Notably, the 1no. space per dwellinghouse provided is less than the Table 16.1 Standard of 1.5no. spaces per dwellinghouse. However, having regard to the provisions set out at Section 16.38 in terms of which on site car parking space provision below the maximum may be permitted, I am of the view the application site in context, satisfies for such relaxation.
- Further, I distinguish that by providing for 1no. space only per dwellinghouse, the number of traffic movements through the restrictive access laneway has been proportionately reduced.
- I also reference the no objection by the City Transportation Planning Division in this regard.

Impacts from Site Works and Construction Activity :

- I do acknowledge the potential for negative impact of construction activity on contextual residential amenity locally, whilst site works and construction activity are on the go. However, I consider that these impacts are only temporary, are to facilitate the completion of the proposed development, and certainly cannot be regarded as unique to this development.
- Further, I consider that given these impacts are predictable and to be expected, they can be properly and appropriately minimised and mitigated by the attachment of appropriate supplementary Conditions to a grant of permission, should the Board be mindful to grant permission, and deem such mitigation of negative impact necessary.

7.5.3. Having regard to all of the above, I therefore conclude that subject to appropriate, relevant Conditions being attached to any grant of planning permission made, no serious or disproportionate threat to the prevailing residential amenity will result from the proposed development, that it is satisfactorily in accordance with the relevant provisions of the Dublin City Development Plan 2016-2022, and with the proper planning and sustainable development of the area.

7.6. Road Access and Traffic Safety

- 7.6.1. The suitability of the application site for residential development will be determined amongst others, with reference to potential for traffic hazards caused by the proposed development, and additional access onto and loading of the local suburban road network. The safety and convenience of all road users is emphasised by the Dublin City Development Plan 2016-2022.
- 7.6.2. As defined by the 'red-line', the application site has no frontage onto any public road locally. The sole opportunity for public road access is the c.30m long, c.4.0m wide narrow accessway between Nos.10 and 12 Ardpatrick Road, and which provides the application site with linkage onto Ardpatrick Road to the south. At the time of inspection the role of this accessway was apparent as a local domestic and predominantly pedestrian 'service link' between the narrow passageway running through the length of the rear of all adjacent properties fronting onto Ardpatrick Road, and Ardpatrick Road itself. Such role includes enabling the movement of domestic household 'waste bins' from the rear of the properties down onto Ardpatrick Road, on the relevant household 'bin' collection days. It would also enable pedestrian connectivity for whatever reason, between the front of the Ardpatrick Road properties and their rear yards and gardens etc. (ie. utilities, homeowners etc.). Further, access through the accessway is restricted by 2no. locked gates. A 3rd locked gate is at the entrance opening onto the application site. Enabling the site inspection demonstrated that access onto the application site was impossible without the gates being unlocked and opened.
- 7.6.3. As the understood last, residual piece of land from what was the original parent landholding, now developed with the surrounding housing, without the accessway the application site would be landlocked. Being outside of the 'red-lined' application site, the accessway is not in the ownership of the applicant. However, included with the planning application documentation, the applicant has submitted an 'affidavit', stating the applicant's 'right-of-way' over the laneway
- 7.6.4. Therefore, if the application site is to be developed at all, reasonable, objective consideration of the feasible, practicality of use of the accessway for vehicle traffic

movements, in the public interest is necessary. Fundamental to this would clearly be traffic safety considerations, both with respect to vehicular movement through the narrow accessway, and at the 'junction' opening onto Ardpatrik Road.

7.6.5. Before discussion of the respective 'traffic safety' considerations, I reference the potential for 'land-legal' issues regarding the narrow accessway, to be a threat to future use of the accessway for vehicular movements to and away from the proposed development. I note this threat has been emphasised in the 3rd party appeals. At present the applicant, landowner of the application site, has no ownership of the accessway. Consequently, neither would the prospective purchasers of the proposed 2no. new residential properties, were planning permission to be granted. The only land-legal access to and use of the accessway apparent by the applicant, is by way of the 'affidavit' submitted by the applicant with the planning application documentation, stating the applicant's 'right-of-way' over the accessway. In as much as this 'land-legal' consideration, materially impacts, or not, the practical feasibility of the proposed development, I will discuss such 'land-legal' considerations specifically, at paragraph 7.7 below.

7.6.6. I note that the traffic safety considerations with respect to each of vehicular movement through the narrow accessway, and at the 'junction' opening onto Ardpatrik Road have been emphasised by all of the applicant, the planning Authority and the City 'Transportation Planning Division', and by the 3rd Party Appellants and 'Observers'. The operational practicality and accessibility of the application site / proposed development by emergency vehicles (ie. ambulances and fire tenders) and 'refuse Collection Vehicles' was also emphasised. In fact each of these was targeted by the City 'Transportation Planning Division' as requiring F.I. attention and response by the applicant (see TPD reports dated 25/09/2018 and 16/04/2019 respectively, the applicants F.I. response submission dated March 2019, and the applicants response to the 3rd party appeals lodged, dated 16/06/2019).

7.6.7. Traffic and Pedestrian Safety : Vehicular Movements through the c.30m narrow accessway

- The physical construct and fabric of the existing narrow accessway from Ardpatrik Road to the application site, between No's.10 and 12 Ardpatrik

Road is fixed (see series of photographs attached, taken at the time of physical inspection).

- Crudely, the accessway is c.30m in length and c.4.0m wide.
- As pointed out by the City 'Transportation Planning Division', there is no scope for widening or other safety improvements to the accessway at all. To do so would require physical impact on both of the gable ends of the 2-storey end of terrace houses on either side, as well as the respective fixed lateral external boundaries of each property. Such improvements are clearly not possible.
- I reference that the historically refused application under ref.**3918/17** was for 4no. dwellings and 4no.on-site car parking spaces. Included in the planning Authority's stated 'refusal reason' was that the proposed access to the site from a substandard laneway would endanger public safety by reason of traffic hazard.
- Under the current application ref.**3726/18**, whilst the same substandard narrow accessway has been proposed to enable the proposed development with local road network connectivity, I distinguish as reasonable for consideration that the scale of development on site has been reduced by half (50%) to 2no. dwellinghouses, each with 1no. 'in curtilage' car parking space. Clearly, the traffic generation potential of this small housing development has been correspondingly reduced (ie. by 50%), as well as the potential for 2-way vehicular movements through the accessway, where no widening is possible at all.
- Having regard to all of the information available, the respective comprehensive arguments made by the 3rd party appellants and Observers, and to my own observations made at the time of physical inspection, whilst certainly not ideal, a reasonable motivation has been made towards use of the narrow 'accessway', as the 'only' means for vehicular connectivity of the proposed development (2no. houses) with the local road network.

Notwithstanding the significantly reduced domestic traffic generation capacity to 2no. vehicles, I share the City 'Transportation Planning Division's' concern that even at these levels, the potential for vehicular conflict, within the accessway, due to incapability to accommodate 2-way movements, requires direct attention by the applicant.

- In this regard the City 'Transportation Planning Division' requested the applicant to submit F.I. clearly demonstrating how use of the accessway will be managed in order to give priority to incoming vehicles, thereby avoiding a situation where a vehicle would be required to reverse out onto Ardpatrick Road. I note the City 'Transportation planning Division's'[prompt to the applicant for consideration of "the potential to provide road markings , signage etc. within the site, of other alternative measures which adequately manage the use of the access".
- Having regard to the fact that the narrow accessway between No's.10 and 12 Ardpatrick Road is the only means by which vehicular connectivity can be achieved, and to the serious physical constraints posed by the c.30m long, c.4.0m wide accessway itself, I deem this F.I. request by the City 'Transportation Planning Division' to have been reasonable and proportionate.
- Without clearly establishing such a 'Management plan' demonstrating how vehicles could practically and safely move through the accessway, in the local public interest, I am inclined to the view that the proposed development could not be allowed, and noting further that this would require integrated and co-ordinated consideration and decision with determination of the traffic safety at the junction opening of the accessway at its southern end onto Ardpatrick Road. This element of the overall 'road access and traffic safety' considerations of the proposed development , also required F.I. attention by the applicant, consequent of the City 'Transportation Planning Division's' F.I. request.
- With respect to traffic safety of management of vehicular use of the 'private' accessway, the applicant's F.I. response includes revised plans and details of

the accessway, with proposed 'signage' and 'roadmarkings' intended to enable safe access to the proposed development. Specifically, the objective of the 'signage' on the private accessway is to ensure that all motorists are aware that priority is to be given to 'incoming' vehicles off Ardpatrick Road, into the proposed development. Such, wo0ukld ensure that the situation is avoided where vehicles are reversing back out onto Ardpatrick Road. I note that at the northeastern end of the accessway, the applicant proposes 'yield' roadmarkings and indicating the location where vehicles exiting the proposed development should stop and wait, yielding to incoming vehicles off Ardpatrick Road, as priority. Supplementary signage is also proposed directing vehicles exiting the proposed development (ie. before entering the narrow accessway) as follows :

- "Give Way to Incoming Vehicles", and
- "Motorists must reverse to oncoming traffic"

These are intended to ensure that motorists exiting from the 2no. dwellinghouse development are aware that they must give priority to incoming vehicles and if they have entered into the accessway, reverse back onto the curtilage of the proposed development. Complementary to this, I note the further signage proposed, in this instance facing incoming traffic off Ardpatrick Road, directing that vehicles entering the accessway off Ardpatrick Road, have priority over the vehicles exiting the proposed development.

- Having regard to all of the above, I accept as reasonable that consequent of the 'signage' and 'roadmarkings' proposed by the applicant in the F.I. response, priority control directing vehicular use of the accessway has been established. Contrary to 3rd party view, I believe sufficient circulatory space is available within the proposed development to ensure that vehicles exiting the development into the accessway are able to do so in a forward facing position. Further, I am of the view that the efficacy of the F.I. management plan for vehicular use of the accessway is enabled by the significantly reduced domestic traffic generated by the 2no. houses.
- Over time, I would therefore anticipate that neighbourly relations would ensure sustained co-operation and co-ordination regarding vehicular use of the

accessway. I would also anticipate that efficacy in use of the accessway, and notwithstanding the introduction of vehicular movements, would also include the adjacent Ardpatrick Road neighbours, many of whom have objected to the proposed development.

- Accordingly, I share the view apparent by the City 'Transportation Planning Division', as to the acceptability of the applicants F.I. proposals for the management of vehicular use of the narrow accessway. Further attention however is necessary, regarding the traffic safety at the 'junction' opening of the accessway onto Ardpatrick Road.

7.6.8. Traffic Safety : Vehicular Movements through 'accessway junction opening' onto Ardpatrick Road

- The second element of the City 'Transportation Planning Division's' F.I. request, required the applicant to demonstrate the traffic safety consequent of vehicular movements through the accessway 'junction opening' onto Ardpatrick Road. The existing physical form and local character of this 'junction opening' is clearly illustrated in the comprehensive photograph series attached, taken at the time of my physical inspection.
- Specifically, the applicant was requested to demonstrate that sightlines to appropriate standards can be achieved at the entrance to the accessway off Ardpatrick Road. Further, attention was prompted as to whether the provision of double yellow lines either side of the junction opening would be necessary in order to achieve adequate sightline visibility.
- In response, I note that the applicants F.I. submission outlined several scenarios in terms of which sightlines of 23m (30km/h), 14m (20km/h) and 7m (10km/h) respectively could be achieved (see Drawings No.2 and 3). These were logically deduced having regard to the requirements within the 'Design Manual for Urban Roads and Streets (DMURS)' for a 30km/h speed limit (Drawing No.2), and also in situations where 'on-street' car parking effectively acts as an insitu, de-facto traffic calming measure, effectively reducing actual vehicle speeds to 20km/h or 10km/h (see Drawing No3).

- Noticeably, on-street car parking along both frontages, is an existing characteristic of Ardpatrick Road. All of the parties reference local use of Ardpatrick Road for on-street car parking. The 3rd party appellants and Observers emphasise concern that achieving 'sightlines from the 'opening junction' of the accessway onto Ardpatrick Road, will result in the loss of the road frontage to on-street car parking and seriously disrupting the usage and amenity currently enjoyed by the Ardpatrick Road property owners closest, on either side of the 'opening junction'. This would be due to the sterilisation of this near side road frontage with 'double yellow lines'. I am empathetic to the concerns of the Ardpatrick Road residents in this regard.
- Having regard to my own observations made at the time of physical inspection, on-street car parking is certainly an inherent feature characterising both road frontages in the vicinity of the 'opening junction' of the accessway onto Ardpatrick Road. Having reference to the provisions of Section 4.4.9 of 'DMURS', such on-street car parking as characterising Ardpatrick Road can in itself act as an effective 'traffic calming measure. Specifically, I note that Section 4.4.9 sets out that on-street car parking can "calm traffic by increasing driver caution, visually narrowing the carriageway and reducing forward visibility". In fact, I note that reducing forward visibility is considered as one of the most effective measures in achieving increased driver caution, and a corresponding reduction in vehicular speeds. In the current instance, I would share the views apparent by the City 'Transportation Planning Division' and the applicant, that Ardpatrick Road in the vicinity of the 'opening junction' is indeed conducive to lower vehicle speeds due to the comprehensive residential development along both frontages, with each property having own driveway access directly off Ardpatrick Road, the narrow carriageway width, and the significant presence of on-street car parking along both road frontages. By way of my own physical inspection, I would assert that this insitu, de-facto traffic calming effectively reduces vehicle speeds to significantly below 30km/h speed limit. I would also be inclined to the view that were any one or more of these elements to the current effective traffic calming be removed, vehicular speeds along this section of Ardpatrick Road

would increase. Double-yellow lines along the nearside frontage of Ardpatrick Road would result in the removal of the existing well populated on-street car parking along this frontage, with reasonable anticipation of consequent increased vehicular speeds and reduced driver caution.

- In my view, the applicant effectively and relevantly assists consideration of the current application by way of reference to a recent decision by An Bord Pleanála under ref.**ABP-301940-18**, in which a proposed housing development was granted planning permission, where the exit sightline visibility to the southern approach, is restricted by insitu on-street car parking. In consideration of the traffic safety merits of this case, I reference that the Boards planning inspector at that time. Motivated such that whilst sightline visibility to the south could indeed be improved by way of removal of existing on-street car parking spaces, this was not considered as necessary in the interests of traffic safety. Fundamental to the Boards consideration in this instance, I understand, was that rather, traffic safety could potentially be negatively impacted due to the removal of the existing on-street car parking spaces. This could then potential result in reduced driver caution in the approach, with increased vehicular speeds.
- Therefore, having regard to all of the options presented as F.I. by the applicant, I am inclined to share the view understood concluded by the City 'Transportation Planning Division' that given the lower vehicular speeds along Ardpatrick Road, together with the effective traffic calming consequent of the existing on-street car parking, 'double-yellow' lines could be restricted to the near side of Ardpatrick Road across the 'junction opening', thereby ensuring that the accessway to the proposed development would not be blocked. Further, the trade-off for on-street car parking capacity would be that whilst one or two spaces in front of the currently gated accessway would be lost, all the remaining on-street car parking capacity would remain unchanged. Whilst I understand the City 'Transportation Planning Division's' conclusion that "the provision of double-yellow lines to the front of the property would be acceptable", I note that they prescribed that this would be subject to the Agreement of the 'Traffic Advisory Group' of the Dublin City Council, in order

to ascertain the length of the double yellow lines required. I note further that requirement for such an agreement was dealt with by way of Condition attached to the Planning Authority's decision to grant planning permission.

- Having regard to all of the above, I would recommend to the Board accordingly, in this instance.

7.6.9. Accessibility of the proposed development by Fire Tender and Refuse Collection Vehicles :

- With respect to 'firefighting', the applicant references the provisions of Section 5.4.2 of Part B Volume 2 of the Building Regulations 2017 (ie. 'Fire Safety for Dwellinghouses) as follows : "For effective firefighting operations, fire brigade appliances should be able to get within 45m of the principal entrance to the dwellinghouse". Having regard to this provision, clarification was made that the proposed entrances into both House Type 'A' and 'B' are within 45m of Ardpatrick Road. Accordingly, therefore, fire tender access is not required both within the proposed development, or via the narrow accessway between No's.10 and 12 Ardpatrick Road.
- With respect to refuse collection, I note the applicants clarification made in the F.I. submission that as the neighbouring Ardpatrick Road properties do on the 'refuse collection days', the respective residents of the proposed development are to wheel their waste bins down the accessway to Ardpatrick Road, where they would be left for pick up by the relevant service providers. Consequently, there would be no need for refuse collection trucks to access the proposed development at all.
- I note that in their consideration, the City 'Transportation Planning Division' had regard to each of these as acceptable. On the information available, I share this view and recommend accordingly.

7.7. **Land – Legal Issues : Use of the c.30m Narrow Accessway :**

7.7.1. I have taken careful note of the arguments made by the 3rd party appellants, in respect of land / legal matters relating to

- the applicants proposed vehicular use of the c.30m long narrow accessway in order to access the proposed development from Ardpatrick Road, and which in fact is under 3rd party ownership, and
- that no consent has been provided by the 3rd party to the applicant, allowing for access onto and over the accessway in order to physically enable construction operations, and the sustained feasibility of the proposed development. This would include for the opening and closing of the existing 2no. locked gates, and / or for their removal completely.

7.7.2. I have also had regard to the response by the applicant

- referencing the 'affidavit' included with the application documentation, stating the applicant's 'right-of-way' over the accessway, and which would include the existing 'gate' fixtures, and
- that accordingly, the applicant has satisfied the issue of ownership (ie. no consent is required).

7.7.3. However, having regard to the arguments raised against the proposed development by the 3rd party appellants, I have had regard to the application for planning permission on its planning merits alone, as set out in the above discussions. I am inclined to the view that any decision on the planning application does not purport to determine the legal interests held by the applicant, or any other interested party in relation to use of the c.30m narrow accessway in this instance, and the consequent impact, or not, on the proposed development.

7.7.4. I would also draw attention to Section 34(13) of the Planning and Development Act, 2000 as amended, which relates as follows:

"A person shall not be entitled solely by reason of a permission or approval under this section to carry out a development".

In this regard, I reference the explanatory notes which read as follows –

"This subsection ... makes it clear that the grant of permission does not relieve the grantee of the necessity of obtaining any other permits or licences which statutes or regulations or common law may necessitate". Consequently, I understand that any

legal obligations on the applicant, to ensure that the legality of landownership and user privileges enjoyed by the 3rd party appellants in particular, are not compromised, are covered.

7.7.5. Accordingly, I do not believe these arguments by the 3rd party appellants against the proposed development to be reasonable and substantive grounds for refusal.

7.8. Appropriate Assessment

7.8.1. Having regard to the nature and small scale of the proposed development, to the location of the site within a fully serviced suburban environment, and to the separation distance and absence of a clear direct pathway to any European site, 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.

8.0 Recommendation

8.1. I recommend that planning permission be Granted for the Reasons and Considerations set out below.

9.0 Reasons and Considerations

9.1. Having regard to the Zoning Objective "Z1" for the area and the pattern of residential development in the area, it is considered that, subject to compliance with Conditions set out below, the proposed development would be in accordance with the relevant provisions of the Dublin City Development Plan 2016-2022, would not seriously injure the amenities of the local Ashtown neighbourhood, or of the property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 27th March 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 permission authorities 2 no. residential units only.

Reason : In the interest of clarity.

3. Each new dwellinghouse shall be used as a single domestic residential unit only.

Reason : In the interest of clarity and to ensure orderly development.

4. All bathroom and en-suite windows shall be fitted and permanently maintained with obscure glass. The use of film is not acceptable.

Reason : To prevent overlooking of adjoining residential property, in the interest of residential amenity.

5. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Such materials, colours and finishes shall ensure visual compatibility with and integration with existing surrounding residential development.

Reason: In the interest of visual amenity.

6. All public service lines and cables servicing the proposed development, including electrical and telecommunications cables, shall be located underground except where otherwise agreed with the Planning Authority.

Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development

Reason: In the interest of orderly development and visual amenity

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply in full with the requirements of the Planning Authority for such works and services.

Reason : In the interest of public health.

8. Physical infrastructure and servicing arrangements to enable the proposed development, specifically in relation to access (incl. the new vehicular entrance, front boundary treatment, internal road, costs), shall comply with the requirements of the Planning Authority for such works and services.

Reason : In the interest of traffic safety and orderly development, and in order to comply with requirements in relation to access.

9. The developer shall comply with the following requirements of the 'Transportation Planning Division' of Dublin City Council :

- Driveway entrance shall not have outward opening gates.
- Footpath and kerb to be dished and entrance provided to the requirements of the Area Engineer, Roads Maintenance Department.
- Prior to commencement of development, the applicant shall contact the 'Traffic Advisory Group (TAG)' to ascertain their requirements regarding the provision of double yellow lines on Ardpark Road. Any works shall be at the applicant's expense.
- All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.
- 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.

10. The developer shall comply with the requirements set out in the Codes of Practice from the Drainage Division, the Transportation Planning Division and the Noise & Air Pollution Section, all of the Dublin City Council.

Reason : To ensure a satisfactory standard of development.

11. The developer shall comply with the following requirements of Irish Water : - Prior to the commencement of development, the applicant or developer shall enter into a water and / or wastewater agreement(s) with Irish Water.

Reason : In the interest of public health and of orderly development .

12. The following boundary treatments shall be provided prior to the occupation of the dwellings hereby permitted :

- 1.8m high boundary walls / fences along rear garden boundaries to the rear and between the existing and approved dwellings.

Reason : In the interests of visual and residential amenity.

13. All trees shown to be retained on the site, and on land adjoining the site, shall be adequately protected during the period of construction as per **BS 5837**, such measures to include a protection fence beyond the branch spread, with no construction work or storage carried out within the protective barrier. (The tree protection measures shall have regard to the Guidelines for Open space Development and Taking in Charge, copies of which are available from the Parks and Landscape Services Division).

Reason : In the interests of amenity, ecology and sustainable development

14. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This scheme shall include reference to the 'Arboricultural Assessment' and relevant recommendations therein (CMK Hort & Arb Ltd.), completed for the site.

Any trees and / or 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 order to screen the development and assimilate it into the surrounding suburban environment, in the interest of visual amenity.

15. Each of the proposed dwellinghouses, shall not be occupied until such time as all services have been connected thereto, and are operational, to the satisfaction of the Planning Authority.

Reason : In the interest of orderly development.

16. (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.

- (b) 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.

Reason : In order to safeguard the amenities of adjoining residential occupiers.

17. 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 amongst others :

- details of site security fencing and hoardings;
- details of car parking facilities for site workers during the course of construction;

- details of the timing and routing of construction traffic to and from the construction site and associated directional signage, and with particular reference to the use of the narrow accessway between Ardpatrick Road and the application site. This to include proposals and /or methods to facilitate the delivery of abnormal loads to the site;
- measures to obviate queuing of construction traffic on the adjoining road network;
- measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- hours of working;
- noise management measures;
- measures to prevent and mitigate the spillage or deposit of debris, soil or other material on the adjoining public road network; and
- off-site disposal of construction / demolition waste.

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

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

18. That all necessary measures be taken by the contractor including wheel wash facilities, to prevent the spillage or deposit of clay, rubble or other debris on adjoining accessway and local public road network during the course of the works.

Reason : To protect the amenities of the area.

19. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining accessway and local public road network are kept clear of debris, soil and other material, and if the need arises for cleaning works to be carried out on the adjoining accessway and public roads. The said cleaning works shall be carried out at the developer's expense.

Reason : To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of public safety and orderly development.

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

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

- 21.** In relation to individual houses, the naming and numbering of dwelling units shall be in accordance with a naming and numbering scheme submitted to, and agreed in writing, by the Planning Authority, prior to the occupation of the dwellings.

Reason : In the interest of neighbourhood legibility, and of orderly development.

- 22.** 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.

- 23.** 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

L. W. Howard
Planning Inspector

13th September 2018