



An
Bord
Pleanála

Inspector's Report ABP 307072-20

Development	Refurbishment and extensions to two dwellings and Construction of two new semi-detached dwellings, landscaping, vehicular access, parking, changes in levels, excavation, boundary treatments and site
Location	15-17 Sandymount Avenue, Dublin 4.
Planning Authority	Dublin City Council.
P.A. Reg. Ref.	2188/20
Applicant	Bisvale Designated Activity Company.
Decision	Grant Permission
Third Party Appellants	<ol style="list-style-type: none">1. Valerin O'Shea2. Forastal Management Company K. O'Callaghan and B. Rogan
Observers	<ol style="list-style-type: none">1. Joe and Deirdre Hayes,2. D and S Harrold3. J. Doherty,4. Francis J Murphy
Date of Site Inspection	15 th July, 2020.
Inspector	Jane Dennehy.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	4
3.3. Third Party Observations	4
4.0 Planning History.....	5
5.0 Policy Context.....	5
5.1. Development Plan.....	5
6.0 The Appeal	6
6.1. Appeal by Kathleen O’Callaghan and Bernard Rogan.....	6
6.2 Appeal by Forastal Ltd.....	8
6.3 Appeal by Valerin O’Shea.....	9
6.4 Applicant’s Response	150
6.5 Planning Authority Response.....	14
6.6 Observations.....	14
6.7. Further Responses.....	16
7.0 Assessment.....	20
8.0 Recommendation.....	25
9.0 Reasons and Considerations.....	26
10.0 Conditions.....	26

1.0 Site Location and Description

- 1.1. The site has a stated area of 875 square metres, is rectangular in shape and is that of two houses mid nineteenth century houses which have been subject to various twentieth alterations and extensions. The houses are setback and positioned at right angles from the Sandymount Avenue street frontage off which there is a shared access route on which there are two lamp standards and which runs along the entire length of the site at the side boundary with No 13 Sandymount Avenue a nineteenth century house. There is a second closed vehicular entrance and a front boundary wall constructed in rubblestone, but render faced on the street frontage. Shrewsbury Square which is a gated apartment development is located to the east side.

2.0 Proposed Development

The application lodged with the planning authority indicates proposals for:

Refurbishment and extensions to the two existing nineteenth century houses to include demolition of the extensions and outbuildings. The two existing building following works would result in No 15 as a four-bedroom house and No 17 as a three-bedroom two storey house.

Construction of two semi-detached three story over basement level houses with setback third floors. alteration to the entrance and boundary wall on the frontage, surface parking (4 spaces), green roofs, in hard and soft landscaping , change in ground levels, boundary treatment drainage works pedestrian footpaths and light and site development and excavation works above and below ground level. This development would result in a four-bedroom house and a three-bedroom two storey house.

The total stated floor area is 857 square metres. Site coverage of 47 per cent and plot ratio is stated to be 0.98:1.

- 2.1. The application is accompanied by a design statement, a conservation report, tree survey report, photomontages and 3D models, civil engineering infrastructure report and basement impact statement, mechanical and electrical installations report sunlight and daylight assessment, outline construction management plan,

construction waste management plan, arboriculture report, landscape report and outline specification and an appropriate assessment screening report

3.0 **Planning Authority Decision**

3.1. **Decision**

- 3.1.1. By order dated, 26th Marc, 2020, the planning authority decided to grant permission subject to conditions of a standard nature.

3.2. **Planning Authority Reports**

Planning Reports

According to the **Planning officer**, there is no objection to the current proposal, which he considers reasonable and acceptable with regard to the zoning objective and having regard to the refurbishments and extensions and new build.

The report of the **Transportation Planning Division** indicates acceptance of the proposed vehicular and pedestrian access arrangements, carparking provision but a recommendation for cycle parking provision to be included. Also recommended are requirements for preparation of construction management and construction waste management plans to be prepared, and submitted for agreement with the planning authority, by condition.

There is no report from the **Conservation Officer**. However, a detailed report was issued in respect of a prior application under P. A. Reg. Ref 1706/19. A copy is on file.

3.3. **Third Party Observations**

Several submissions were received from third parties in which the main issues of concern raised are:

The existing buildings merit retention, protection, and inclusion on the RPS.

Adverse impact on the residential conservation area,

Visual amenities from the public realm,

Over development on limited site with insufficient private open space provision,

Risk to structural integrity due to ground works, and,

Loss of trees.

4.0 Planning History

- 4.1. **P. A. Reg. Ref. 2706/19:** Permission was refused, on 13th May, 2019 for demolition of the existing buildings and construction of a three to five storey over basement block of 11 apartments and associated development including above and below ground excavation works and utilization of the basement carpark and services at Shrewsbury Square for reasons relating to protection of architectural heritage significance as provided for in the zoning objective, Policy CHC 4, 16.10.17 and 11.1.5.4 of the CDP and for reasons of adverse impact on residential amenities of adjoining properties especially Nos 9-13 Sandymount Avenue.
- 4.2. **P. A. Reg. Ref. 1123/00 (PL 120255):** The planning authority decision to refuse Permission for demolition and construction of an apartment block, (tree storey over basement) with eleven apartments was upheld following appeal for reasons relating to material contravention of the Dublin City Development Plan 1999 with regard to architectural heritage protection and visual amenity

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Dublin City Development Plan 2016-2022 according to which the site area, is subject to the zoning objective: 'Z2': *To protect and/or improve the amenities of residential conservation areas.* The policy objectives are elaborated on in section 14.8.2

Policy objective providing for protection and enhancement of conservation areas which include Z2 zoned lands are set out under Policy CHC4 and Section 11.1.5.4.

According to section 11.5.1.6 it the policy of the planning authority that new development in conservation areas have regard to local context, landmarks, views, open spaces, and all feature of architectural historic or topographical interest.

Standards for residential accommodation is set out in section 16.10; for residential quality for apartments are in section 16.10.1 and for private open space in section 16.10.2

Policies for retention of existing trees and landscaping works are set out in Sections 16.3.2 and 16.3.3

Standards and guidelines for residential development extensions are set out in Appendix 17.

According to policy 16.10.15 and Policy S15, it is policy to discourage significant underground or basement level development adjacent to or at residential properties in conservation areas or include on the record of protected structures. Development must be above ground level for residential use and below the estimated flood levels for flood Zone area in Zone 'A' or Zone 'B'.

According to policy 16.10.17 reuse of older buildings of significance is central to conservation of the built heritage. In assessment of non-protected older buildings retention and reuse is actively sought by the planning authority.

The indicative site coverage is 45% and indicative plot ratio is 0.5 – 2.0.

6.0 The Appeal

6.1. Appeal by Kathleen O'Callaghan and Bernard Rogan.

An appeal was received from Armstrong Planning on behalf of the appellants of No 13 Sandymount Avenue on 22nd May, 2020 according to which increased intensity of development does not justify the negative impacts of the proposal. Attached are some images and visualisations, a copy of the conservation officer report on a prior application lodged under P A. Reg. Ref 2706/19, and an assessment of the existing buildings by an architectural historian. The issues raised are outlined below:

- The combination of the existing houses and the proposed extensions, and the two proposed new houses results in cramped overdevelopment evidenced by several negative impacts.
- The need, due to overdevelopment, and, due to quantitative deficiencies at ground level to elevate the private open space, compounded by the higher ground level, results in overlooking of No 13 adversely impacting on privacy and residential amenity. Private open space provision is seriously deficient.
- Additional screening on the boundary is ineffective and it is not clear if the high wall or hedging is to be 1.8 metres high and the elevation drawing shows a 1.2 metres height for the wall. Hedge height cannot be controlled. The new rear elevation window for the proposed extension at No 15 will directly overlook the rear garden patio of the appellant property.
- The two proposed new houses will overlook the rear garden of No 13 from every angle due to the increased number and continuous line of multiple windows balconies and terraces significantly affecting residential amenity. Build will extend from the front building line as far as the rear wall of the back garden of No 13 and this is contrary to the guidelines in Appendix 17 of the CDP.
- Parking supply and layout is inadequate, and the swept path analysis should be based on tracking for a five metres length long vehicle. Demand for on street parking will be increased and is unacceptable.
- There is risk of subsidence due to deep excavation for the basement which is required. It is contrary to section 16.120.25 of the CDP.
- The two well designed existing houses, among the earliest constructed on Sandymount Avenue and contributing to the historic development of Sandymount, and residential character of the area are protected by virtue of the 'Z2' zoning and are recommended for inclusion on the RPS. They are of special interest in the streetscape due to location and setback. They have significant original fabric and features including windows clearly visible from the street. They form a grouping of buildings with cultural heritage interest, Padraig Pearce, W. P Yeats, TC Murray.

- The proposed alterations and extensions do not contribute positively and involve the removal of double bay front window may be original, like some in adjoining buildings and the oriel windows which are integral features.
- The two townhouses in the front garden do not relate sensitively to the location in scale and design so that architectural integrity and features can be kept intact. They adversely affect the setting of the two existing houses necessitating the removal of the bay window at No 17 demonstrates overdevelopment. Daylight will be obstructed at No 17 by the first-floor study at No 19 and its south east facing window

6.2. Appeal by Forstal Management Company.

An appeal was received from Kiaran O'Malley and C Ltd on behalf of the Appellant on 5th May, 2020, the owners of the management company for Shrewsbury Square an apartment development adjoining the appeal site and refusal of permission is requested.

According to the appeal:

- The proposed development with the addition of the two townhouse which dominant and impinge on the setting and character of the area and therefore contravene Policy CHC 4 of the CDP. The development is overdevelopment and does not contribute positively to the conservation area and is of poor design quality. The proposed extension to No 15 at 119 square metres in area exceeds that of a four bed those and doubles the original house size to 242 square metres. The townhouses are substantial three storey over basement dwellings at 228 and 247 square metres in floor area, well in excess of standard three and four bed houses. There is a height distortion to the floor to ceiling height by an increase of three metres relative to the existing houses of three metres.
- The position of new houses is too close to the boundary with Shrewsbury Square and have negative impact on the character and distinctiveness of the existing houses.

- There is risk to root systems and impact on specimen trees at Shrewsbury square is serious due to deep excavation. At least two trees at Shrewsbury Square have roots that grow into the site and affect the stability of the boundary wall.
- There is insufficient quantum, and substandard quality in private open space for the existing and proposed dwellings. Private open space and is below that requirement for large houses of ten square metres per bed space (50-65 % short of standards). There is no privacy for No 17 so screening from the terraces and balconies is required.
- There are errors in details on the survey drawings and architectural drawings which confirm that significantly greater works are intended for the existing houses than those described in the notices and there is lack of clarity in the contiguous elevation drawings for the front boundary.

6.3. Appeal by Valerin O'Shea

An appeal was received from Ms O'Shea of, The Murrough Wicklow on 20th April, 2020 in which reference is made to the planning history and to the Z2 zoning for the site in the current CDP, replacing the prior 'Z1' zoning.

According to the appeal:

- The proposed development which is a visually intrusive and incongruous presentation in the streetscape materially contravenes the 'Z2' zoning objective, Policy CHC 4 and section 111.5.5. of the CDP. The existing dwellings make an important contribution to the area's architectural character and streetscape to which, along with CDP policies and objectives, no regard has been made in the application.
- The conservation officer in her report on the prior proposal under P. A. Reg. Ref. 2706/19 and An Bord Pleanala in respect of the prior application address the significance and the positive contribution of the existing houses to the streetscape and the residential conservation area with the conservation officer indicating that the houses are worthy of inclusion on the RPS. (Extracts are provided.) It is clear that the proposal would seriously affect the setting and

relationship of the exiting hoses to the gardens and streetscape and setting of the existing houses and the gardens and would be contrary to the Architectural Heritage Protection Guidelines.

- There are errors in the application in respect of which the appellant claims that the site is not an infill or brownfield, or an underutilised inner-city site as contended in the application to justify the proposal. It is not agreed with the planning office that Policy Objectives QH 18 and 19 in the CDP on promotion of sustainable of vacant underutilised infill sites and higher density are relevant to the application site.
- The proposed development would have negative impact on residential amenities of the existing houses and adjoining properties.
- The existing houses would be deprived of private open space with no gardens being provided to the rear of the houses. The site coverage leaves little scope for private open space provision necessitating the balconies and terraces for the new build and just communal open space for parking and access at the front. The shortfall in quantum and the quality are totally unacceptable and contrary to section 16.10.2 of the CDP on standards. The lower standard of 5-8 square metres per bed-space does not apply as the site is not in the inner suburbs. The two proposed new dwellings and No 17 are seriously under provided with private open space in quantum and in quality.
- Adjoining properties on all sides would be overlooked. The terraces and balconies above ground level would also be visually incongruous and in themselves would be substandard due to intrusiveness from the street traffic.
- The design, proportions, symmetry, materials, roof and façade treatment and colours of the new houses are visually intrusive, in the streetscape, at odds with the Victorian Terrace and with Shrewsbury Square.
- The flexibility with regard to application of the indicative plot ratios and site coverages does not apply to the proposal as there is no commercial use included and the proposal is overdevelopment and the site is not suitable for the quantum of development proposed.
- The basement is in contravention of section 16.10.15 of the CDP as it is in a conservation area.

- Almost all of the vegetation was removed prior to lodgement of the previous application. Removal of healthy trees on Shrewsbury Square and interference with them is contrary to the CDP (Sections 15.3.1 and 16.3.3)

6.4. Applicant Response

6.4.1. **An initial submission was received from Tom Phillips Associates on 18th June, 2020** on behalf of the applicant attached to which are several supplementary submissions and drawings and images. The submission includes alternative proposals for consideration for private open space provision and materials and finishes for the proposed new townhouses to be considered in addition to the original proposals

The rebuttal of the appeals is outlined below:

- The use is permissible within the CDP “Z2” zoning objective so it cannot be deemed a material contravention. A careful design approach was adopted seeking a balance with national policy objectives for maximisation of zoned serviced lands.
- The site is an appropriate and high-quality residential infill in a gap in a dense urban location that does not involve demolition of houses. It is highly accessible, centrally located and in an inner urban location close to amenities and services and employment. It is achieved on the site while safeguarding the amenities of adjoining properties and the vicinity.
- The maximum building height is 8.7 metres for the new dwellings which is lower than some surrounding development of apartments and terraced, detached and semi-detached houses including Victorian houses. It is sympathetic to abutting developments. It fits the context and is not visually intrusive.
- Reference is made to two development proposals favourably commented on by the planning officer and by the inspector for An Bord Pleanála in that it was deemed to be responsive to national strategic planning policy on needs for residential development in appropriate locations. (P. A. Reg. Ref. 3655/15 - Demolition of two mews houses 78 and 80 Merrion Road at rear of Nos 1 and

2 Spafield Terrace and construction of an apartment development and, P A. Reg Ref. 3671/17/ PL 300672 for a development under for a five-storey over basement scheme at 98 Merrion Road refer.)

- The accompanying submission of *Cantrell and Crowley* includes a schedule showing; minimum CDP development management standards: 60 and 50 square metres private open space per dwelling, total area originally proposed per dwelling and, total area per dwelling shown in an alternative option for consideration (shown on drawings 101 and 702 and 703 and Landscape drawing 101.) Standards are exceeded except for one of the proposed new dwellings. (No 21) for which there is provision for 33 square metres private open space.
- The minimum private open space for houses in section 16.10.2 of the CDP is ten square metres. As the site is close to the city centre the application of 5-7 square metres per bed space is reasonable but can be reconfigured to increase the quantum externally and to the terraces. (Drawings P 702 and 703 refer.) Standards can be relaxed, subject to high quality and effective use of underutilised accommodation in a sensitive design response for refurbishments according to sections 16.10.1 and 16.10.2. The onsite position of the existing houses renders it difficult to design and orientate the new development with private open space to the rear. Privacy and quality are achieved due to the setbacks landscaping and screening.

The submission of CMK Hort + AB. confirms the contents of the survey and arboriculture report and confirms the need for some pruning and removal of one tree and two shrubs and no impact on the adjoining property at Shrewsbury Square. Due to minimal tree removal (one tree and two shrubs) are to be removed there is no impact on Shrewsbury Square.

- According to the supplementary submission of Cantrell and Crowley attached to the appeal. With regard to overlooking it is not possible towards no 13 Sandymount Avenue due to voids being glass and obscure glazing and angled fins. The oriel sash window is pre-existing and is to be reinstated. The bottom sash will be obscure glazed. Measures for the glazing in the extensions are included to screen and mitigate overlooking.

Overlooking of Shrewsbury Square is mitigated, in that overlooking us towards the internal avenue. North east facing windows are obscured glazed bathroom windows and sightlines from the terraces are restricted.

- As demonstrated in the accompanying study by IN2 Engineering Design Partnership impacts on sunlight and daylight would be negligible and in accordance with BRE's "Site Layout Planning for Daylight and Sunlight" The average daylight factor exceeds standards for the new development but is below minimum standards for some rooms, (which are identified) in the existing dwellings and it was not possible to address this due to potential for invasive works and sensitive conservation constraints.
- Mitigation for construction impact is provided for as shown in the submission of BMCE with the appeal and the OCMP and CWMP and FRA included in the original application submission. With regard to section 16.10.15 of the CDP it is contended that the proposed basement is insignificant in size and well set back from site boundaries outside conservation areas. It is intended for multifunctional storage and exercise space, not habitable space.
- The supplementary submission by BMCM on the basement construction refers to and confirms the adequacy of the OCMP and FRA. Rock would not be encountered in excavation so any vibration would be insignificant. Flood risk would not arise having regard to the methods to be used in basement excavation and construction.
- Three options for materials selection for consideration are included in the submission: (1) beige brick and self-coloured render as originally proposed, (2) a combination of self-coloured render and red brick and, (3) redbrick only.
- The objections on site coverage are rejected. It is an indicative tool and is correctly calculated at a 47% lacks substance and is consistent with the CDP due to location in a high capacity near a high capacity public transport hub.
- Cycle parking was not included as it was assumed, due to the size, of the dwellings internal storage areas could be used.

- The assertions about accuracy and adequacy of application material are vexatious. All details are covered in the descriptions and submissions within the application documents.

6.4.2. **A further submission in response to the appeals was received from Tom Phillips Associates on 20th July, 2020** on behalf of the applicant. Attached are supplementary submissions comprising a design statement vehicle tracking drawing, landscape plan drawing, and images. It is stated that it is not intended to reiterate the observations within the prior submission in response to the appeal other than to confirm that the proposed development in preparation went through several iterations which resulted in a design solution minimising impacts on residential amenities and maximising efficient use of zoned lands. Additional observations are outlined in brief below:

- The validity and accuracy of the 3D images provided with the appeal by Kathleen O’Callaghan and Bernard Rogan is questioned. Verified photos by 3D on behalf of the applicant are provided. Without access to the property at No 13, a verified image for direct comparison purposes cannot be provided but there are numerous basic modelling mistakes and there is only one baseline photo. Perspective lines of the existing house facia do not match those in the photo and there are inconsistencies in the lighting. A list relating to windows and fins, and screening is provided.
- The planning authority was satisfied that overlooking issues are addressed.
- As the new dwellings are to be in the front section of the site facing the gable end of No 13 no overlooking issues arise and perceptions of overlooking are addressed in the design with angled fins etc. A revised location for the master bedroom window at no 15 at the rear boundary of the garden of No 13 where views would be over the Shrewsbury Square ramp would be acceptable to the applicant.
- The conservation assessment (Melanie Hayes) is not an assessment or review of the current proposal so it is not relevant but the applicant agrees with the statement that the existing houses are worthy of retention, conservation and restoration.

- The auto-track analysis included with the submission demonstrates that manoeuvring is not problematic in relation to the proposed parking arrangements. The appellant did not provide a report from a transport or traffic engineer to support the claims made to the contrary.
- No issues of concern have arisen in relation to the proposed excavation to provide for the basement development. The site is not a conservation area and a site specific “Outline Construction Management Plan and Construction Waste Management Plan” and “Flood Risk Assessment” prepared for the original application were included in the Civil Engineering Infrastructure Report. The proposed basement could not be regarded as “significant”.

6.5. Planning Authority Response.

There is no submission from the planning authority on file.

6.6. Observations

6.6.1. Francis Murphy

A submission was received from Francis Murphy of 11 Shrewsbury Square on his own behalf on 19th June 2020. His concerns are:

- Due to the conservation merit of the two existing houses and the Z2 zoning listing on the record of protected structures is merited. Guiding principles for the Z2 zoning were not observed in relation to the proposal.
- The site is not in the inner city as submitted and therefore the lower standards for private open space provision do not apply. A minimum of ten square metres per bed space is required.
- Mature trees at Shrewsbury Square’s boundary may have their roots affected by the degree of excavation involved affecting Shrewsbury Square if the viability of the trees is compromised.

6.6.2. Joe Hayes

A submission was received from Joe Hayes of 11 Sandymount Castle Avenue on his own behalf on 26th May 2020 according to which the current proposal seems to jam an oversized, development in to a narrow constrained linear footprint formed from

the front and rear gardens of the existing use with no outdoor space adversely affecting the rear gardens of adjoining properties and the architectural heritage of the area.

6.6.3. **Des Harrold**

A submission was received from Joe Hayes of 9 Sandymount Castle Avenue on his own behalf on 26th May 2020. According to it, the proposal is overdevelopment and unacceptable for Z2 zoned lands and the existing structures will be totally obscured. The proposed new three storey dwelling is completely at odds with adjoining development and, at the rear would overwhelm No 13 Sandymount Avenue. There is inadequate ground level amenity and open space provision

6.6.4. **Joseph Doherty,**

A submission was received from Joseph Doherty of 14 Sandymount Castle Avenue on his own behalf on 26th May 2020 according to which:

- The existing houses are and have been prominent historic features on Sandymount Avenue and the proposed works should respect the existing structures. The garden cannot be regarded as infill lands. Development in protected structures' gardens is not acceptable and the height and bulk of the proposed new structures would block the view of the existing houses in the streetscape. The proposed development is gross overdevelopment lacking in private open space provision and within appropriate façade design. Significant overlooking and overshadowing of adjoining properties would occur and sun would be blocked from N 14 for four months of the year.
- The risk of subsidence and o structural integrity of existing development would be at risk due to the deep excavation and the sandy soil and lack of conventional foundations.
- The removal of trees would damage the streetscape environment.

6.7. **Further Responses**

6.7.1. A further submission was received from the **third-party appellant, Valerin O'Shea** of the Murrough, Wicklow in response to the two concurrent third party appeals on her on own behalf on 18th June 2020 according to which.

- The 'Z2' zoning objective, Policy CHC4 and Section 11.5.4.1 of the CDP is pertinent to the proposed development and the contention that the proposed development materially contravenes Policy CHC4 in the Appeal of Kathleen Byrne submitted by Kieran O'Malley in this regard is supported.
- The view of the conservation department that the existing buildings merit regional importance and protected structures status is supported. There is objection to the roof height of the existing buildings, to removal of an original oriel window and insertion of a new oriel with different dimensions
- It is inappropriate to include drawings for a withdrawn application P. A. Ref. Reg. 2706/19) with the current application.
- The site description is incorrect in the application documents. The location is not inner suburbs or inner city so incorrect standards for private open space were applied.
- There is serious risk due to the excavation involved, to the roots of the trees at Shrewsbury Square and to the structural integrity of adjoining properties.

6.7.2. A further submission was received from the **third-party appellant, Valerin O'Shea** of the Murrough, Wicklow in response to the applicant response to the appeal on 29th July, 2020. In the submission Ms O'Shea reiterates and confirms the issues of concern and objection raised in the appeal and considers that there are not satisfactorily addressed. In the submission she elaborates in detail on her objections as briefly outlined below.

- Application documentation errors and inaccuracies have not been addressed.
- The site is neither a gap, infill, inner suburban or brownfield site and is zoned Z2 and a conservation area so inappropriate policies and standards have been applied to justify the development. Various extracts from statutory guidance and the CDP are provided. The development is materially contrary to the zoning objective, conservation objectives and residential development qualitative and quantitative standards and that there are serious deficiencies and shortfalls in private and public open space provision, the design is inappropriate and insensitive to existing two Victorian houses which contribute to the streetscape with which they have a unique relationship which would be

breached and to the surrounding historical architectural character of the area. This distinction between boundaries for the Z1 and Z2 zoning objectives are blurred in the applicant's submissions. The Z2 conservation designation which also applies to the gardens is disregarded and their infill is discouraged.

- The statement that the spread of the tree roots within Shrewsbury Square close to the boundary would be undamaged is unrealistic. Reference is made to Tree Nos 1594, 1595 and 1596 where the development footprint abuts the boundary and tree Nos 769 and 1592 the removal of which was required for the prior proposal under P. A. Reg. Reg. 2706/19.
- The adequacy and safety of the revised proposal for the four parking spaces is questionable and cycle spaces should be provided too, storage of cycles inside houses being unacceptable.

6.7.3. A further submission was received from the agent for the **third-party appellant, Kathleen O'Callaghan and Bernard Rogan** in response to the applicant response to the appeal on 27th July, 2020. According to the submission, the applicant has failed to respond to issues of overlooking and loss of privacy, built heritage impact and impact on residential amenity. The appeal grounds are reiterated and briefly outlined below:

- The location is not an inner urban location
- There is significant adverse impact on residential amenities of adjoining properties which materially contravenes the zoning objective
- Private open space provision is seriously deficient qualitatively and quantitatively for all dwellings, not just one dwelling, notwithstanding the proposed revisions for reconfiguration in the applicant's submission and overlooking of the private open space will occur. Objective QH21 on new development amenity standards is contravened. There are more bedspaces than those indicated. There are insufficient distances from boundaries and reciprocal overlooking from windows will occur.
- Perceived overlooking is not addressed in the applicant's submissions and even with angled fins some overlooking and overlooking from opened windows can occur. Private open space at No 13 will be overlooked by the

reinstated oriel window, screening will be removed resulting in views into No 13 and it has insufficient separation distance from the boundary. The roof terraces will be used by residents so measurement of overlooking should be from the edge of the terrace rather than a window. There is no assurance that walls and hedging will be 1.8 metres in height. The development does not accord with sections 17.3 and 17.4 of Appendix 17.

- There are conflicting statements in the conservation report (Goodbody) with the current application and the conservation report (Carrig) lodged with the prior application. It is considered that the existing houses exhibit significant original fabric and are well designed Victorian houses some of which is echoed in the Tudor style houses opposite the site. However, it is acknowledged that there no unifying architectural style in the area. Oriel windows are a feature to the Tudor style houses opposite the site and the unusual orientation of the two existing houses is a contributory feature of interest in the streetscape.
- The concerns raised on parking provision raised in the appeal are not addressed in the options proposed in the applicant's submission.
- Increasing housing output does not take precedence over amenity and heritage.

6.7.4. A further submission was received from the third-party appellant, **Forastal Management Company** in response to the applicant response to the appeal on 29th July, 2020. According to the submission the concerns of the appellant area not adequately addressed:-

- The site is neither infill or brownfield and is a side garden site to which section 16.10.9 of the CDP applies.
- The development is inappropriate oversized and an example of bad planning precedent, scale and massing not having been addressed in the applicant's response.
- Private open space provision issues have not been addressed and this is due to the overdevelopment and oversized new houses within the proposal and is Roof gardens and terrace space is of insufficient utility value and is not

acceptable at the location. Omission of one unit would make private open space provision feasible.

7.0 **Assessment**

7.1. The issues central to the determination of a decision and considered below are:

Consistency with national and local policy.

Alterations, Refurbishment and Extensions to the two existing dwellings:

Trees and vegetation and boundaries.

Visual Impact on Streetscape in Sandymount Avenue.

Overlooking from new houses.

Basements

Site layout, on-site parking and private open space provision.

Entrance arrangements and on site carparking.

Environmental Impact Assessment Screening

Appropriate Assessment Screening.

7.2. **Consistency with national and local policy**

In principle, proposals for upgrading and refurbishment of existing dwellings, not least historic dwellings, and for development especially on underutilised serviced sites within established urban areas well served by transport and facilities are to be encouraged having regard to national strategic policy for consolidation of cities and towns, in accordance with sustainable development principles. The assertion in one of the appeals that this policy is not applicable to a location within an area subject to the 'Z2' zoning objective within the CDP is not accepted. However, it is essential this is balanced with the need for it to be established that proposals for residential development within these particularly sensitive areas which generally are particularly sensitive are of a satisfactory standard from a planning perspective.

7.3. Alterations, Refurbishment and Extensions to the two existing dwellings:

It is agreed with the appellants that the two existing dwellings are of significant special conservation interest and merit and the observations of the Conservation Officer in her report on the previous unsuccessful proposal (which provided for demolition) concur with these views. In the current application the application has made satisfactory proposals for retention, upgrade and refurbishments providing for the future viability of the houses as residential dwellings. These proposals upgrade the habitable accommodation of the two existing mid nineteenth century houses along with removal of existing extensions and construction of new single storey extensions, one of which incorporates a green roof while providing for retention of joinery and fenestration are welcome. Furthermore, the new development proposed for the existing dwellings would not give rise to overlooking or overshadowing of the properties on the adjoining sites notwithstanding contentions as to changes in natural screening provided by trees and vegetation attributable to the works involved in the proposed development.

7.4. There are positive benefits and gain from a historic building conservation perspective, from the perspectives of national policy on housing supply and the interests of sustainable development in that high-quality dwellings at the original buildings would be achieved. In the event that permission is granted, it is recommended that a condition be included with a requirement for the works to the houses to be undertaken the direction of a person with specialist expertise in historic building conservation.

7.5. Furthermore, it is reasonable in the interests of sustaining the viability of the historic buildings that a flexible approach provided for in the interests of building conservation be taken in application of minimum technical standards, for internal dimensions, access to light to internal accommodation etc. Where BRE standards for average daylight factor to some existing rooms within the existing buildings is considered acceptable.

7.6. Trees and vegetation and boundaries.

The remarks as to extensive removal of trees and vegetation early in 2019 in the appeals and observer submissions have been noted. However, this matter lies

outside the scope of consideration of the appeals in connection with the current application.

The concerns as to the structural stability of the boundary walling with the Shrewsbury Square and as to potential for damage to the roots of the trees on the outer side of the property boundary on ground of possible root spread into the application site is reasonable. Protective measures would be required with regard to any site preparatory works throughout the site and as to whether any underpinning or other protective measures would be required for the boundary wall bearing in mind the proximity of the footprints of the proposed extensions to the existing dwellings.

7.7. Visual Impact on Streetscape in Sandymount Avenue.

The two proposed new houses, as indicated in the application are three storey over basement units in a contemporary, box form design with a setback top floor. The existing development on Sandymount Avenue between the Dart station and Merrion Road is a mix mainly of recently constructed contemporary apartment developments, older apartment development towards the junction with Merrion Road and at Shrewsbury Square and nineteenth century houses. The presentation of the proposed development onto the street frontage is considered acceptable as an insertion as an infill within the context of this streetscape. Two additional options for external finishes are proposed for consideration all of which are acceptable. It is noted that railings are to be erected on the existing boundary wall, and in the event that permission is granted, it is recommended that a compliance submission be required by condition and that the overall height above the level of the footpath should not exceed 1.8 metres and that the railings be painted black. There is no objection to the proposed widening of the entrance.

7.8. Overlooking from new houses.

It is considered that potential for undue overlooking of adjoining properties to either side, over the windows and private open space at No 13 Sandymount Avenue and over Shrewsbury are satisfactorily addressed in the application. It is not considered necessary for the first floor bedroom across from the end of the rear garden boundary of No 13 to be relocated to the opposite side facing over the ramp in Shrewsbury Square to which the applicant indicates a willingness in the submission

of 20th July, 2020 because as proposed, undue overlooking from this window would not occur.

In the case of Shrewsbury Square it is noted that no upper floor fenestration for habitable rooms in the proposed new dwellings face towards the blocks and that internal road space and concierge service buildings and trees adjoin the application site. Appropriate screening at second floor level terraces will prevent viewing toward the rear gardens at No 13 Sandymount Avenue the proposed terraces face directly towards the blank elevation of its gable wall.

7.9. Basements.

Given the site location within an area subject to the Z2 zoning objective, (rezoned from a Z1 zoning in preceding CDP) and the introduction in the current CDP of a new stringent policy, Policy S15 and sections 16.10.15 in which significant underground and basement level development adjacent to or at resident properties in conservation areas there is little scope for justification for the deep excavation and construction of proposed basements for the dwellings. In this regard it should be borne in mind that the existing adjoining development which includes basement parking was authorised and constructed prior to the bringing into effect of the current extant CDP.

Notwithstanding the survey work and design whereby it is established that the water table is well below the maximum level of excavation required for a basement depth of three metres is required, details of which are in the “basement impact assessment” report the justification for the basement element cannot be justified, having regard to the location within the ‘Z2’ zoned lands, proximity to the existing houses which are of special architectural heritage interest, the foundations for which are not established proximity historic boundary walls and on grounds of potential for precedent for similar development in areas where Policy S15 and section 16.10.15 apply.

It is noted that the intended purpose of the basement levels is storage and exercise space. To that end, if omitted, the two houses would retain all of the habitable internal accommodation although some amendment to the internal layout may be feasible to provide for storage and exercise space on the ground and upper floors.

Should permission be granted, it is recommended that a condition be attached to omit the basements.

With regard to the deep excavation required, should the basement elements be considered acceptable, with there being some trees adjacent to the concierge facilities within the Shrewsbury Square development potential impacts can be addressed through a methodology within a detailed demolition and construction management plan supplementing the basement impact assessment plan submitted with the application.

7.10. Site layout, on-site parking and private open space provision.

While the plot ratio is well within the range for residential conservation areas zoned lands and the site coverage is just in excess of it, the argument of the appellant and observer parties as to overdevelopment is understandable, particularly with regard to private open space provision. In this regard, it is of note that the site coverage is very much taken up by the internal roadway and surface parking which is somewhat regrettable although, it is considered that a minimum provision of four spaces, (as proposed) is essential in order to mitigate potential additional demand for on street parking in this busy suburban location. It is agreed that it would be incorrect to apply the lower inner-city standards in quantum for private open space provision for the proposed development.

However, it has been demonstrated that in quantum, the private open space provision for three of the four dwellings exceeds the minimum requirement at 10 square metres per bed-space or 50 – 60 square metres. Consideration has been given to the option of omission of one of the dwellings in order to increase the openness of the site, separation distances and private open space provision at ground level but this is considered inessential and unwarranted. The observation in one of the appeals as to greater capacity of the site to provide for private and communal open space with omission of one dwelling is noted in this regard.

The distribution within the layout at ground level, is somewhat restrictive as regard amenity potential, and lacking as regards provision for space to the rear is more typical for an apartment development in that alternative space in terraces and balconies can be substituted. Although the current proposal is for houses which are not within the inner city, but in an inner suburban location it is considered that the

proposed arrangements can be accepted as of sufficient amenity value for each of the dwellings. In this regard, the locality has a range of recreational amenities within a short distance which will benefit the development.

7.11. Entrance arrangements and on site carparking.

There are no objections to the proposed arrangements for access via the existing entrance which is to be widened, sightlines in either direction and manoeuvrability in and out of the on-site parking spaces all of which is considered acceptable to the transportation planning division. The details shown on the vehicle tracking drawing provided in the applicant's submission of 20th July, 2020 have been noted in this regard.

7.12. Environmental Impact Assessment Screening.

Having regard to the nature of the proposed development and its location in a serviced suburban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.13. Appropriate Assessment.

Having regard to the scale and nature of the proposed development and to the serviced suburban location, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation.

Given the foregoing, it is considered that the proposed development is acceptable subject to the omission, by condition of the basement levels for the proposed new townhouses, notwithstanding the somewhat compact layout and the restricted site configuration. It is therefore recommended that the planning authority decision to grant permission be upheld. Draft Reasons and Considerations and Conditions follow:

9.0 Reasons and Considerations

Having regard to the policies for delivery of compact sustainable urban infill residential development in the city as prescribed in current national policy and strategic guidance; the zoning objective for the area in which the site is located which is: “Z2” *To protect and/or improve the amenities of residential conservation areas*” according to the Dublin City Development Plan, 2016-2022, to the extant residential use of the two existing nineteenth century houses and, to the site configuration it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of adjoining properties would not adversely affect the integrity and special architectural character of the existing houses on the site and development within the streetscape along Sandymount Avenue in the vicinity, would result in a satisfactory standard of residential amenities for the future occupants, would be acceptable in terms of traffic safety and would be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions.

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars lodged with the planning authority 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 basement levels for the two proposed townhouses shall be omitted in entirety. Revised plan section and elevation drawings shall be submitted to the planning authority for agreement in written prior to the commencement of development.

Reason. In the interests of the protection and amenities of the Residential Conservation Area within which the site is located and the proper planning and sustainable development of the area.

3. All historic building conservation works including mechanical and electrical servicing of the existing houses shall be in accordance with the recommendations in: *Architectural Heritage Protection: Guidelines for Planning Authorities* issued by The Department of the Environment, Heritage and Local Government in 2005 and shall be implemented and completed under the direction of a person with specialist expertise in historic building conservation in accordance with best conservation practice

Reason: In the interest of clarity, and the special interest and character of the existing nineteenth century houses and their protection from unnecessary damage or loss of historic fabric.

4. 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 all intended construction practice for the development, including measures for protection of existing development and boundary walls, construction traffic routing and management, construction parking, materials storage, site compound, noise management measures and off-site disposal of construction/demolition waste.

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

5. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

6. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

7. Details of the proposed arrangements for all hard and soft landscaping and boundary treatment, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenities.

8. Prior to the commencement of the development the applicant shall submit and agree in writing with the planning authority details of the proposed works to the existing front boundary wall, to include alterations to provide for the entrance, and for the proposed railings to be mounted which shall be painted black. The height above footpath level for wall and railings shall not exceed. 1.8 metres.

Reason: In the interest of clarity and visual amenities.

9. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

10. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

11. Proposals for a name and numbering scheme and associated signage for the proposed development shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of urban legibility.

12. A plan containing details for the management of waste, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste, especially recyclable materials, in the interest of protecting the environment.

13. 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.

Jane Dennehy

Senior Planning Inspector

16th July, 2020.