



An
Bord
Pleanála

Inspector's Report ABP-307116-20

Development	Subdivide and extend house into 3 apartments and construct one house to the side and two houses to the rear
Location	29 Victoria Road, Clontarf, Dublin 3
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3960/19
Applicant(s)	Ciarán Costello
Type of Application	Permission
Planning Authority Decision	Split
Type of Appeal	First-Party v refusal
Appellant(s)	Ciarán Costello
Observer(s)	1. Damien O'Higgins, 2. Robert Phelan & Judith Murphy, 3. Terry Stanley, 4. Orla Fleming, 5. Deirdre Kilroy, 6. Irma McLoughlin & Fergus Craddock, 7. Brid Galvin & Eoin Cavanagh, 8. Clontarf Residents' Association, 9. Andrew O'Brien, 10. Cllr. Donna Cooney
Date of Site Inspection	21 st September 2020
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1.** The appeal site is located on the north side of Victoria Road in Clontarf, 250m north of Clontarf Road (R807 regional road) and approximately 4.5km northeast of Dublin city centre. It is stated to measure 0.17ha and currently accommodates a vacant three-storey detached Edwardian period home that is included in the Record of Protected Structures (RPS) appended to the Dublin City Development Plan 2016-2022. The house features red-brick front gables with sash windows and a central recessed entrance, while the grounds are substantially overgrown with mature trees and vegetation. Vehicular access is available from the front off Victoria Road leading to a single-storey mono-pitched roof garage / shed structure on the east side of the house. The site features an expansive rear garden area backing onto properties along Kincora Avenue and a rear service lane. The boundaries of the site are primarily formed by concrete walls supplemented by overgrown planting of varying heights.
- 1.2.** The immediate area is characterised by rows of red-brick terraced and semi-detached Victorian-style houses fronting onto tree-lined streets, with more recent housing located to the west along Victoria Road and to the north on Kincora Avenue. Ground levels in the vicinity drop gradually to the south towards Dublin Bay.

2.0 Proposed Development

- 2.1.** The proposed development comprises the following:
- demolition of a single-storey side garage / shed structure with a gross floor area (GFA) of 42sq.m, demolish and rebuild the rear scullery structure (10sq.m) and site clearance works, including the removal of trees;
 - subdivision of the house to provide for three two-bedroom apartments with GFAs of between 124sq.m and 134sq.m, the construction of a single-storey flat-roof one-bedroom house with a GFA of 56sq.m on the east side and the construction of a pair of two-storey four-bedroom houses to the rear each with a GFA of 167sq.m;
 - soft and hard landscaping treatments throughout, including private and communal garden areas and revised boundary treatments to provide a

replacement vehicular access on the west side off Victoria Road and a new sliding gate onto the rear laneway to serve as the vehicular access to proposed house B;

- connections to local services.

2.2. In addition to the standard planning application documentation and drawings, the application was accompanied by a Landscape Masterplan, a Stormwater Design Report and a Heritage Impact Assessment with Method Statement. Following a request for further information a Method Statement for the windows and a set of shadow study drawings were submitted with the design, scale and height of the two proposed houses to the rear amended.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority issued a split decision with respect to the proposed development, granting permission for the works to the house, including its subdivision into three apartments, and the construction of a one-bedroom house, subject to 14 conditions of a standard nature, including the following:

- Condition 4 – four off-street car parking spaces shall only be provided and a revised landscaping scheme shall be submitted;
- Condition 5 – architectural conservation requirements.

3.1.2. In refusing to grant permission for the two semi-detached houses to the rear, the planning authority stated the following:

- The proposed development in its revised form would constitute backland development that would cause a significant loss of amenity to existing properties to the north by way of overlooking and loss of privacy, and would provide inadequate residential amenity to new residents, due to the largely north-facing habitable spaces and outdoor amenity spaces. The proposed development would therefore seriously injure the amenities of property in the vicinity and would be contrary to the zoning objective to protect the residential amenities of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer (November 2019) noted the following:

- the lane to the rear is not taken in charge and is heavily grassed;
- to address previous reasons for refusal of development under planning authority register reference (reg. ref.) 4586/18, the applicant reduced the number of houses and the scale of new build elements from four three-storey rear terraced houses and a two-storey detached side house to a pair of two-storey semi-detached rear houses and a single-storey side apartment;
- subdivision of the protected structure is welcomed and the opportunity to provide additional housing on site is acknowledged;
- conservation details and revised proposals for aspects of the work to the protected structure are required, including work methods and details for the windows, the chimneys and the en-suite bathrooms;
- revised landscaping proposals are required, including reduced car parking, to more appropriately account for the character of the protected structure;
- the provision of communal open space on site compensates for the absence of useable private amenity space serving the apartments;
- concerns raised previously during consideration of reg. ref. 4586/18 have not been fully addressed, including the orientation, depth, lighting and functionality of the amenity space serving the proposed houses;
- further information is required with respect to visibility at the proposed replacement vehicular access, the provision of access for emergency vehicles, car parking and cycle parking;
- use of the rear laneway as a vehicular access to proposed house B should be refused, given the condition of this roadway and as the Development Plan standards for mews-style housing require at least a minimum carriageway width of 4.8m;

- the proposed houses would result in overlooking of rear gardens to the east and west sides;
- the single-storey apartment to the side would be fully screened from the front by a perforated wall feature and would not be likely to impact on the character of the Architectural Conservation Area (ACA) or the protected structure.

The final report of the Planning Officer (March 2020) reflects the decision of the planning authority and notes the following:

- it has not been demonstrated via the revised proposals and the shadow study drawings submitted that the gardens for the proposed houses would receive a sufficient level of sunlight;
- revised proposals for the houses would result in privacy concerns for house A and inadequate lighting of bedroom 3 to both of the proposed semi-detached houses;
- the increase in the height of the proposed houses to three storeys would not enhance the character and setting of the protected structure;
- the replacement vehicular access off Victoria Road would be acceptable.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) – no objection, subject to conditions;
- Waste Management Division – conditions recommended;
- Transportation Planning Division – further information initially requested and subsequently, no objection, subject to conditions;
- Conservation Officer – further information initially requested and subsequently, a grant of permission is recommended, subject to conditions.

3.3. Prescribed Bodies

- Minister for Culture, Heritage and the Gaeltacht – no response;
- An Taisce – no response;

- The Heritage Council – no response;
- Fáilte Ireland - no response;
- Irish Water – no response;
- An Chomhairle Ealaíon – no response.

3.4. Third-Party Observations

3.4.1. During consideration of the application by the planning authority, a total of 12 third-party submissions were received from a local residents' association and neighbouring residents of Victoria Road and Kincora Avenue. The issues raised in the submissions can be collectively summarised as follows:

Residential Amenity

- previous reasons for refusal under reg. ref. 4586/18 relating to the loss of privacy, excessive overlooking and increased noise disturbance have not been addressed in the revised application proposals, which result in overdevelopment of the site;
- overshadowing of gardens to the rear would arise;
- vehicular use of the laneway would result in increased noise and disturbance for neighbouring houses;
- precedent for refusal of planning permission is provided for under the Board's decision to refuse permission for an extension on residential amenity grounds to a neighbouring house at 15 Victoria Road (ABP ref. PL29N.244726 / reg. ref. 2092/15);

Access, Traffic & Parking

- the laneway to the rear of 31 to 49 Victoria Road is a private laneway that is not capable of serving the vehicular traffic proposed and the pedestrian entrance on its boundary with 29 Victoria Road has been blocked-up and not used since the 1990s, therefore, questions arise as to whether or not a right of way over this lane to the appeal site exists;

- parking and traffic congestion is problematic in the area, due to the limited capacity for off-street parking, and the proposals would exacerbate this situation and lead to an increased safety risk for pedestrians and road users;
- the existing vehicular access should only be used, as there would be restricted visibility from the replacement entrance onto Victoria Road;
- emergency vehicle access would not be possible along the rear laneway;

Architectural Heritage

- the benefits of renovating the house are acknowledged and any works to the house should be considerate of its prominence and position in the streetscape and should be sympathetic to the symmetry and original features of the house;
- the development would impact on the structural integrity of a wall marking the boundary of the ACA, which had formed part of the original boundary to Clontarf Castle;
- proposals would have an undue visual impact on the protected structure and the streetscape, particularly as a result of the design, scale, height, materials and siting of the new buildings;
- the area already features an extensive amount of infill housing and the pair of semi-detached houses proposed constitute backland development that is at variance with Development Plan policy and ACA objectives;

Trees & Boundaries

- the mature trees on site should be maintained and safeguarded to serve as a visual screen and a natural amenity, in line with the provisions of Development Plan policy CHC7;
- the existing trees and planting provide habitat for wildlife;
- boundary treatment details are omitted from the proposals;

Other Matters

- local schools are oversubscribed and the proposals would put excessive pressure on public transport services, as well as drainage infrastructures;

- a construction management plan to address traffic and parking management, dust emissions and littering, would be required in the event of a grant of planning permission, and this should avoid use of the rear laneway by construction traffic;
- drainage requires attention given the differences in ground levels between the site and adjoining properties;
- proposals would result in a depreciation of property values in the immediate area;
- an inaccurate development description was included in the public notices with no reference to the intended use of the rear laneway for vehicular access.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. Pre-planning discussions between representatives of the planning authority and the applicant were undertaken in April 2019 under DCC Ref. PAC0141/19, in order to discuss proposals to address the reasons for refusal of a previous planning application relating to the appeal site. Key issues raised during these discussions related to the acceptability of the house subdivision works, the need to protect the setting and character of the protected structure, a preference to use the existing vehicular access and the need to provide wayleave details for use of the rear laneway access.
- 4.1.2. The following recent applications relate to the appeal site:
- reg. ref. EXPP0166/18 – in June 2018 the planning authority issued a split decision with respect to a Section 5 application seeking clarification on whether or not certain restoration, renewal or remedial works to the protected structure on site are exempt from the requirement to obtain planning permission;
 - reg. ref. 4586/18 – permission was refused by the planning authority in January 2019 for the subdivision of the house into three apartments with a three-storey rear lift core extension, the construction of a detached two-storey house to the east side and four two-storey terraced houses to the rear, and

the provision of additional vehicular entrances off Victoria Road and the rear laneway. Reasons for refusal related to concerns regarding the impact of the rear houses on neighbouring residential amenities, the inadequate provision of private amenity space for the rear houses and the overdevelopment of the site with resultant undue impacts for the ACA and the protected structure.

4.2. Surrounding Sites

- 4.2.1. Reflective of the residential suburban character of the area, planning applications in the immediate area primarily relate to proposals for domestic extensions and alterations.

5.0 Policy & Context

5.1. Development Plan

- 5.1.1. The appeal site has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022, with a stated objective 'to protect, provide and improve residential amenities'. The house on site is a protected structure included in the RPS (ref. 8209) and following the adoption of Variation 2 to the Development Plan, the site and immediate areas to the south and east were included within the Haddon Road and Victoria Road ACA.
- 5.1.2. Relevant planning policies for residential development are set out under Sections 5 (Quality Housing) and 16 (Development Standards) within Volume 1 of the Development Plan. Amongst other National guidelines, policy QH1 of the Plan seeks to build upon and enhance standards outlined in 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007). Policy QH21 of the Plan is relevant, as this seeks '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'.
- 5.1.3. Design principles for residential development are set out in Section 16.2.2.2 of the Development Plan. Design standards for houses are set out in Section 16.10.2 of the Development Plan, and matters to be considered in assessing proposals for infill housing are outlined under Section 16.10.10 of the Plan. In this part of the city (area

3), a maximum of 1.5 car parking spaces per house is allowed based on map J and standards within Section 16.38 of the Development Plan.

5.1.4. The following Development Plan architectural heritage policies are relevant to this appeal:

- CHC1 - preserve the built heritage of the city;
- CHC2 - ensure the special interest of protected structures is protected;
- CHC4 - protect the special interest and character of conservation areas;
- CHC7 – trees in ACAs;
- CHC8 – off-street parking for protected structures and in ACAs.

5.1.5. Appendix 24 of the Development Plan addresses 'Protected Structures and Buildings in Conservation Areas'.

5.2. Planning Guidelines

5.2.1. The following planning guidance documents are relevant:

- Urban Development and Building Heights Guidelines for Planning Authorities, (2018);
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2018);
- Design Manual for Urban Roads and Streets (DTTaS and DoECLG, 2013);
- Architectural Heritage Protection Guidelines for Planning Authorities (2011);
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009).

5.3. Environmental Impact Assessment - Preliminary Examination

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

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The applicant has appealed the planning authority's decision to refuse to grant planning permission for the two rear semi-detached houses and thereby exclude the houses from the permission. The grounds of appeal can be summarised as follows:

- the two houses would not feature bedroom windows overlooking Kincora Avenue houses and following the planning authority's request for further information the potential for overlooking would not arise and would be no worse than the present scope for overlooking to arise between neighbouring properties;
- the revised house proposals would feature larger private gardens than those initially proposed and it was incorrect of the planning authority to assert that these are primarily north-facing spaces, given that they would be of reasonable size and depths, as well as featuring south-facing elements;
- the revised proposals would ensure that sufficient sunlight to the gardens of the two proposed houses would be available in line with the relevant standards.

6.2. Observations

6.2.1. In response to the grounds of appeal, ten observations were submitted from a local residents' association and neighbouring residents of Victoria Road and Kincora Avenue. These observations primarily reaffirm issues raised in the third-party submissions, as summarised above, while also raising matters that can be collectively summarised as follows:

- the Board should determine the planning application de novo based on the provisions of Section 37(1)(b) of the Planning and Development Act 2000, as amended;
- third-parties should have been afforded an opportunity to comment on the revised house proposals, given that the planning authority considered these revisions to be materially different to the previous proposals;

- the planning authority's decision to refuse permission for the two semi-detached houses is supported, given the implications for neighbouring residential amenities, including overlooking, the visual impact of the houses, the poor lighting to amenity areas and the provision of north-facing habitable rooms;
- permission should also have been refused for the single-storey side apartment building, the access to the rear laneway, alterations to the front boundary and the removal of mature trees;
- inaccurate separation distances between neighbouring houses and the proposed semi-detached houses were referenced in the grounds of appeal;
- the Transportation Planning Division of the planning authority considered the rear laneway to be substandard and incapable for use as a vehicular access;
- space is of a premium at present and the entire rear garden area should be maintained as part of the setting for the protected structure;
- bins for the houses and apartments would be positioned along the front footpath where they would be unsightly;
- concerns expressed regarding past failures to prevent damage to the site;
- various conditions to restrict the extent, scale and detail of the development should be applied in the event of a grant of planning permission.

6.3. Planning Authority Response

6.3.1. The Planning Authority did not respond to the grounds of appeal.

7.0 Assessment

7.1. Introduction

7.1.1. The following represents my de novo assessment of the application proposals. The proposed development can be readily separated into the new build elements and the works to subdivide the house on site. I consider the substantive planning issues

arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Side Building;
- Residential Amenities;
- Design & Architectural Heritage;
- Access, Parking & Traffic.

7.2. Side Building

- 7.2.1. The orientation, scale, design, layout and siting of the proposed side apartment building on site relative to the adjacent house to the east, no.31 Victoria Road, is such that the potential for undue overshadowing, overlooking and overbearing impacts on neighbouring residential amenities from this element of the proposed development would not arise. To facilitate the construction of this building, a garage / shed structure attached to the original house would be demolished and removed, and a decorative lattice brickwork would form a screen along the front elevation of the building, as illustrated in drawing no.030 (Revision C). This contemporary new build element would not harm the setting of the protected structure, would not be obtrusive or over dominant along the streetscape and would provide some visual enhancement to the site in replacing the existing garage / shed structure.
- 7.2.2. Within the development description this new building to the side is referred to as an 'infill apartment'. The proposed apartment would comply within the internal space standards for a one-bedroom apartment, based on the 'Sustainable Urban Housing: Design Standards for New Apartments'. However, these guidelines define an 'apartment' as 'a self-contained residential unit in a multi-unit building with grouped or common access'. While grouped or common access with the apartments in the protected structure is available from the entrance courtyard, I am satisfied that the subject 'infill apartment' building does not fit into the 'New Apartment Guidelines' definition, as it is a standalone detached structure with own-door access and as it is not in a multi-unit building. As a result, the proposed residential unit should not be assessed against standards required for new apartment developments and it is more appropriate to assess this element of the proposals having regard to 'Quality

Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’ (2007). The residential unit measuring a stated 56sq.m in floor area would comply with the internal space standards for a one-bedroom two-person single-storey house, as set out in the ‘Quality Housing Guidelines’, including the 44sq.m minimum floor area. A combined private amenity space of 24sq.m to serve this two bed space house would be provided, while the Development Plan applies a minimum standard of 10 sq.m of private amenity space per bed space for new houses. Additional amenity space would be available for occupants in the adjacent communal open space. In conclusion, I am satisfied that this element of the proposed development should not be refused permission, as it would not injure the amenities of the area, as it would not be contrary to Development Plan provisions and as it would provide a suitable level of amenity for future occupants.

7.3. Residential Amenities

- 7.3.1. Section 16.10.8 of the Development Plan notes that backland development can cause a significant loss of amenity to existing properties, including via overlooking, the loss of privacy and the loss of mature vegetation or landscape screening. The trees and overgrown planting on site would be removed as part of the project and to address concerns expressed by the planning authority with respect to overlooking of the neighbouring gardens located 7m to 8m to the east and west side of the first-floor windows in the two proposed houses, the applicant revised the design, scale, height and layout of the houses. To overcome excessive overlooking of the adjacent side gardens, I am satisfied that this would be necessary. In deciding to refuse permission for the houses, the planning authority referred to the ‘significant loss of amenity to existing properties to the north by way of overlooking and loss of privacy’. While acknowledging that the revised proposed houses would feature first and second-floor bedroom windows between 29m and 47m from the rear windows of the houses directly to the north at nos.19 and 21 Kincora Avenue, the proposed upper-floor windows would be positioned between 5m and 7m from the rear boundary with nos.19 and 21. As a result there would be significant scope to overlook the entire rear gardens to these properties from the rear upper-floor windows of the proposed houses. Given the depth of the rear gardens to nos.19 and 21, excessive

overshadowing or overbearing impacts for these neighbouring properties would not arise. Consequently, the proximity and height of the upper-floor windows to the proposed houses directly facing onto the rear gardens of nos.19 and 21 would lead to excessive overlooking of these gardens and substantial loss of amenity for the residents of these neighbouring houses.

- 7.3.2. Policy QH21 of the Development Plan seeks to ensure that new houses provide for the needs of family accommodation with the provision of a satisfactory level of residential amenity, in accordance with the standards for residential accommodation. In refusing permission for the two houses, the planning authority also considered that the houses would provide inadequate residential amenity for future occupants, due to the largely north-facing habitable spaces and outdoor amenity spaces. The Development Plan requires up to 60sq.m to 70 sq.m of rear garden area for houses of this scale. Both houses would be provided with garden space to the rear and side, including a stated 128sq.m for house A and 153sq.m for house B. Consequently, I am satisfied that sufficient private amenity space in line with Development Plan provisions would be provided for future occupants of these houses and it would not be appropriate to refuse permission on these grounds.
- 7.3.3. A target gross floor area of 120sq.m is set out within the Departmental 'Quality Housing Guidelines' for a four-bedroom three-storey seven-person house. The proposed houses would feature gross floor areas substantially in excess of this at approximately 180sq.m and 212sq.m. Based on the guidelines, the minimum living-room, aggregate living, aggregate bedroom and storage area requirements are achieved for both of the proposed houses. To address concerns with respect to overlooking of neighbouring gardens to the side, the houses primarily feature north-facing habitable spaces. While I recognise that the upper-floor layouts would present overlooking concerns and are not ideal in terms of natural lighting of internal rooms, notwithstanding this I am satisfied that the internal space and layouts for the proposed houses, including ground-floor east and west-facing windows, would provide a reasonable level of amenity for their future occupants.
- 7.3.4. In conclusion, I am satisfied that the proposed houses would provide a suitable level of amenity for future occupants, however, the proposed development would injure the residential amenities of the area as a result of excessive overlooking of the gardens to nos.19 and 21 Kincora Avenue, which would be contrary to the provisions

outlined in section 16.10.8 of the Development Plan. Consequently, permission for the proposed development should be refused for this reason.

7.4. Design & Architectural Heritage

- 7.4.1. I note the extensive support from the planning authority and several third parties towards the principle of the works to the protected structure, which would provide for the long-term rehabilitation of the property. Details of the proposals to the house would appear to sensitively address the architectural constraints of the protected structure, as well as meet the requirements of the planning authority's Conservation Officer, who has also suggested that several conditions should be attached in the event of a grant of permission for the proposed development. I am satisfied that the works to the house would enhance the appearance of the property when viewed from the immediate area, including the ACA, and the principle of this element of the project would not be contrary to planning policy, including policy CHC2 of the Dublin City Development Plan 2016-2022, which requires the special interest of protected structures to be protected. Furthermore, while recognising that a relaxation in apartment standards would be acceptable for a refurbishment proposal to a protected structure, I am satisfied that the internal space, layouts and communal open space for the proposed apartments would provide an appropriate level of amenity for future occupants.
- 7.4.2. The applicant had originally proposed two flat-roof two-storey houses to the rear and subsequently revised these to a pair of pitched-roof three-storey houses. The character of the immediate area, including the ACA, is dominated by residential uses with a consistent urban grain readily identifiable and generally delineated by the red-brick two-storey residences set back and fronting onto Victoria Road and Haddon Road. Views of the proposed houses to the rear would be available from within the site, from the public realm, including the immediate front street area, and from the adjoining properties. Drawing no.032 revision C illustrates the proposed houses relative to the protected structure and I am satisfied that this reveals that the scale and height of the proposed three-storey houses to the rear would be substantive in this backland ACA location. I am satisfied that the proposed houses to the rear would constitute a visually obtrusive or dominant form of backland development, and, therefore, would be contrary to policy CHC2 as it would not conserve or

enhance the setting of the protected structure and would be contrary to policy CHC4 of the Development Plan, which requires development in ACAs to contribute positively to the setting, character and distinctiveness of the area. Permission for the proposed houses should be refused for this reason.

- 7.4.3. While I recognise the broad planning policy provisions supporting densification of development on infill urban sites, the development proposals reveal substantial difficulties in terms of providing buildings of greater than single-storey to the rear of the site, due to the character of the site and the existing pattern of development in the area, including the need to avoid detrimental impacts on neighbouring residential amenities and the need to appropriately address the character and setting of the ACA and the protected structure on site.

7.5. Access, Parking & Traffic

- 7.5.1. During the initial consideration of the planning application, concerns were expressed by neighbouring parties and the Transportation Planning Division of the planning authority regarding the potential use of the rear laneway as a vehicular access to house B, given the substandard condition of the laneway, including extensive overgrown vegetation and the narrow carriageway width (3-4m), and as the legal rights to use this laneway had not been confirmed within the application. The applicant subsequently omitted providing car parking within the curtilage of house B, however, a new sliding timber gate would be installed along the boundary with the lane as illustrated in the revised proposals submitted (see drawing no.005 revision c). The laneway is substandard for vehicular access and a safe replacement vehicular access with sufficient sightlines, which the Transportation Planning Division has not objected to, would be available off Victoria Road. Consequently, in the event of a grant of planning permission, the vehicular access, including the provision of a sliding timber gate onto the rear laneway, should be omitted from the development as a condition of the permission. Restrictions on the quantum of parking to serve the reduced number of residential units on site would also be warranted and reasonable, particularly in addressing the character and setting of the protected structure. While I recognise that the development would to some extent attract additional traffic to the area, this would be largely imperceptible and would not lead to concerns regarding traffic safety or convenience. I also recognise that the proposed development would

attract additional traffic to the area during the construction period. However, the impacts of this construction-related traffic would be for a temporary period and can be suitably addressed within a construction management plan for the proposed development to be agreed with the planning authority. Accordingly, subject to conditions, the development should not be refused permission for reasons relating to access, parking and traffic.

8.0 Appropriate Assessment

- 8.1. Having regard to the minor nature of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend that planning permission be granted for the demolition and site clearance works, for the subdivision of the house into apartments, the construction of a single-storey house to the side and associated development, including the provision of a front replacement vehicular access, in accordance with the said plans and particulars, based on the reasons and considerations marked (1) under and subject to the conditions set out below.
- 9.2. I recommend that planning permission be refused for construction of a pair of three-storey houses to the rear of the site, for the reasons and considerations marked (2) under.

10.0 Reasons and Considerations (1)

1. Having regard to the existing character of the site, including the protected structure, the prevailing pattern of development in the vicinity, including the location of the site in the Haddon Road and Victoria Road Architectural Conservation Area, and having regard to the provisions of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance

with the conditions set out below, the subdivision of the house into apartments, the construction of a single-storey house to the east side of the site and the associated development, would not seriously injure the visual amenities of the area, including the character and setting of the protected structure and the Architectural Conservation Area, would not seriously injure the residential amenities of the area or of property in the vicinity, would provide a suitable level of amenity for future occupants of the residential units, in accordance with the provisions of the Dublin City Development Plan 2016-2022, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 day of February 2020, 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 proposed development shall be amended as follows:
 - (a) the pair of semi-detached three-storey houses to the rear of the site are excluded from the permission and the area for these houses shall be landscaped to form amenity space for residents of the site;
 - (b) the sliding timber gate on the boundary with the rear laneway shall be omitted and a replacement permanent fixed boundary shall be provided or the existing boundary maintained;

- (c) a maximum of four car parking spaces with sufficient on site turning areas shall only be provided on site.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential and visual amenity.

- 3. The landscaping scheme shown on drawing no. P400-101, as submitted to the planning authority on the 27th day of February, 2020, shall be carried out within the first planting season following substantial completion of external construction works.

In addition to the proposals in the submitted scheme, the following shall be carried out:

- (a) the area of the omitted houses shall be landscaped to form amenity space for residents of the permitted units on site.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of three 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 amenity.

- 4. (a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric;
- (b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application

and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement;

(c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment;

(d) Details of the procedures to be followed in the above, including proposals with respect to work methodologies, attic insulation, doors, windows, the historic staircase and brick pointing shall be submitted to, and agreed in writing in advance with, the planning authority.

Reason: To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

5. The materials, colours and textures of all the external finishes to the proposed new build house to the side, the replacement rear scullery extension and hard landscaping, including the internal boundaries, shall be submitted to and agreed in writing with the Planning Authority before the commencement of development on site.

Reason: In the interest of the visual and residential amenities of the area.

6. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

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

Reason: In the interest of public health and to ensure a satisfactory standard of development.

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

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

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This Plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, traffic management measures and off-site disposal of construction/demolition waste.

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

10. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation

from these times shall 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.

11. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining 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 interest of orderly development.

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

Reason: In the interest of urban legibility.

13. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

14. 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.

12.0 Reasons and Considerations (2)

1. Having regard to the location of the site within the Haddon Road and Victoria Road Architectural Conservation Area, to the pattern of development in the vicinity and to the protected structure on site, it is considered that the three-storey houses to the rear, by reason of their scale, design, height and position would be visually obtrusive and would impact negatively on the visual amenity of the area, including the setting and character of the conservation area and the protected structure, and by reason of their upper-floor windows proximate to the rear boundary would result in excessive overlooking of the rear gardens to nos.19 and 21 Kincora Avenue to the detriment of the amenities enjoyed by residents of

these properties. The proposed development would, therefore, be contrary to the requirements of the Development Plan, in particular section 16.10.8 addressing 'backland development' and policies CHC2 and CHC4 of the Dublin City Development Plan 2016-2022, which seek to conserve and enhance the setting and character of protected structures and Architectural Conservation Areas, and would be contrary to the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

7th October 2020