



An
Bord
Pleanála

Inspector's Report ABP-308755-20.

Development	Permission to demolish partial boundary wall and construct 2 houses.
Location	Site at Athlumney Villas located to the rear of Nos. 6 & 7 Ranelagh Road, Dublin 6.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2994/20.
Applicant(s)	Glanroyal Developments Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Jerry Ryan.
Observer(s)	None.
Date of Site Inspection	18/02/2021.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located to the rear of No. 6 & 7 Ranelagh Road, Dublin 6, both of these houses are Protected Structures and comprise two storey houses over basements. The houses front onto Ranelagh Road to the east while the southern boundary wall of no. 7 lies adjacent to the footpath on the road to Athlumney Villas. To the rear of the site, Construction House, the offices of the Construction Industry Federation, rises to 6 storeys in height and includes a basement garage which is accessed via the access road to the subject site. While the primary access to this building is from Canal Road, there is also a pedestrian access to the CIF building adjacent to the subject site.
- 1.2. The wider area generally comprises a number of terraced period buildings, rising to three storeys in height and which have a variety of uses including residential and commercial. Athlumney Villas comprise two storey terraced houses and a service garage which rises to single storey. This garage lies to the rear of No. 8 Ranelagh Road, and to the south of the access road to Athlumney Villas. To the rear of No. 8 Ranelagh Road, a modern three storey residential building has been constructed.
- 1.3. Nos. 6 & 7 Ranelagh Road appear to be in multiple occupancy residential use and have had the rear garden areas separated from the subject site in the past by a wall. The level difference between the existing rear spaces afforded to the existing houses and the subject site is approximately 1.5m with the subject site higher than the existing rear space. There is a rear access to the existing houses located on the southern boundary of No. 7 Ranelagh Road.

The total site area is indicated at 226.5m². Car parking in the area is by way of on-street paid / permit parking. There is no off-street parking provided for the existing houses.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the demolition of partial boundary wall in disrepair between rear gardens of Nos. 6 & 7 Ranelagh Road and of contemporary brick boundary wall to rear of both sites adjoining Construction Industry Federation site, construction of 2 no. two storey, two bedroom semi-

detached houses with gross floor areas of 110 sqm (house to the rear of no. 6) & 112 sqm (house to the rear of no. 7) both with living spaces at first floor level, 2 no. rooflights each overhead, accessed via shared private courtyard via an existing pedestrian entrance off Athlumney Villas and all associated landscaping and site works, all at Athlumney Villas located to the rear of Nos. 6 & 7 Ranelagh Road, Dublin 6.

2.2. The application included a number of supporting documents including as follows;

- Plans, particulars and completed planning application form
- Planning Design Statement -
The statement, prepared by Darmody Architecture, sets out the detail of the proposed development and considers that the proposed development complies with the development plan zoning provisions and residential design standards. The statement also considers the planning history of the site including the DCC Conservation Officers Report in terms of the permitted development, PA ref 3177/11 as well as third party submissions and previous reasons for refusal for mews developments on the site. Appendix 2 of the Design Statement includes a shadow analysis of the existing site.
- Conservation Assessment -
The Assessment, prepared by Franc Myles, Archaeology and Built Heritage Ltd., sets out the planning context of the site while section 3 provides details of the existing site, including the Protected Structures which front onto Ranelagh Road. No. 6 and 7 Ranelagh Road comprise a terrace and end of terrace two storey over basement Georgian houses which are part of a row constructed in c1810. It is submitted that the rear fenestrations success that the buildings are in multiple occupancy and the rear gardens, the subject of this appeal, are split level where the excavation for basements facilitate the development of a lower back yard and the garden level was retained by a wall. The gardens today are disused and the primary dividing wall has been removed for some of its extent.
The Conservation Assessment at Section 4 details the proposed development, noting from a conservation perspective, the views and aspects from the Protected Structures have been greatly diluted by Construction

House. While much of the primary garden dividing wall has been removed, the calp limestone wall to the side elevation is to be retained as part of the development.

The Assessment concludes that the proposed development offers a planning gain where it provides additional accommodation for the city and utilises lands that have no use or function in the context of the Protected Structures. Where a traditional mews-type model is not being deployed, the proposed development will not be a source of architectural confusion where the new will be clearly demarcated from the existing. There is little reason the proposed development should not be accepted on conservation grounds.

2.3. Following a request for further information, the applicant submitted the following additional documents:

- An Arboricultural Impact Assessment -
This assessment, prepared by John Ward, ISA Certified Arborist of Murray & Associates Landscape Architecture, also includes a Tree Protection Strategy and drawings. The assessment sets out the location and classification of all trees on or in close proximity to the site and includes recommendations for their removal or retention. The report concludes that the 3 trees to be removed to accommodate the development are of low value and their removal will not have a major impact on the tree cover in the overall area.
- Shadow Analysis Comparison -
A more detailed Overshadowing Report has been prepared by Darmody Architecture and includes an assessment of the likely potential impacts associated with the proposed development on neighbouring properties. The report concludes that the impact of the proposed development is relatively insignificant.

3.0 **Planning Authority Decision**

3.1. **Decision**

The Planning Authority decided to grant planning permission subject to 19 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history, third party submissions and the City Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The Planning Report considers that the principle of the proposed development is acceptable in terms of the zoning. In terms of zoning, it is accepted that the development exceeds the indicative standard for Zone 2 but notes that higher site coverage is acceptable given the proximity of the site to public transport corridors, planning history and an assessment of the scheme design. It is concluded that the proposed development will not result in unacceptable impacts on the character of the area or the amenity of future occupiers or neighbours.

In terms of design, the scale of the development is considered acceptable and it is noted that the original stone boundary wall is proposed to be retained, which is welcome. The proposed development is also considered acceptable in terms of residential standards and private amenity space provision.

The initial Planning Report required that further information is submitted with regard to the trees and the lack of justification for their removal. In addition, the report raised concerns that the proposed development may result in overshadowing on neighbouring properties.

Following the submission of the response to the further information request, the final Planning Report concludes that the proposed development is acceptable. The Planning Officer recommends that permission be granted subject to conditions. This Planning Report formed the basis of the Planning Authority's decision to grant permission for the proposed development.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to compliance with conditions.

Following the submission of the response to the FI request, no change to the original report is noted.

Road Planning Division: The report notes the planning history of the site and that the subject site is located within 200m of the Charlemont Luas station on the Luas Green Line and approximately 600m of the Bus Connects Core Bus Corridor no. 12. The site is also within approximately 1km of St. Stephens Green. It is concluded that given the constraints of the site, zero parking could be acceptable in this instance.

The report concludes that the development is acceptable and the division has no objections to the proposed development subject to conditions.

Conservation Officer: The report notes that the scale, materiality, proportions and architectural quality of the proposed development in relation to the protected structures is appropriate and while sufficient amenity space is given to the protected structures, concern is raised regarding the extensive loss of the historic trees to the rear of No. 6 Ranelagh Road.

It is considered that insufficient information regarding the significance of the historic trees has been submitted. The application does not satisfactorily address the condition or significance of the historic trees or provide sufficient justification for their removal.

No information has been provided that sets out the site works and boundary works required. All historical elements of the remaining walls are to be retained, protected, consolidated and repaired as part of the proposal.

The report requires that further information is submitted.

Following the submission of the response to the FI request, the Conservation Officer advised no objections to the proposed development subject to the inclusion of recommended conditions.

3.2.3. Prescribed Bodies

None.

3.2.4. Third Party Submissions

There are 2 submissions noted in relation to the proposed development on the PAs file. One seeks to support the development and the second objects to it. The issues raised are summarised as follows:

Mr. Joseph Kearney, no. 6 Athlumney Villas:

- Although he will miss the trees and the wildlife, he considers that the outstanding architectural quality and the thoughtfully appropriate scale of the design will enhance the local streetscape.
- To minimise disturbance, a detailed site management plan and schedule of works should be required as a condition.
- The boundary wall with the CIF car park is to be demolished and should be used as the primary access to the site.
- The access issue is raised as reconstruction works at 9 Ranelagh Road has lead to a serious disturbance.

Mr. Jerry Ryan, no. 5 Ranelagh Road:

- The development is excessive given the restricted nature of the site.
- It will exceed planning density policy guidelines currently in force.
- Pedestrian access seems very narrow for motorised wheelchair access.
- No consideration to the existing trees which have a huge amenity value to surrounding properties.
- No agreement has been reached with neighbour for the removal of trees on the shared boundary.
- If the development proceeds as proposed, it is hard to see how similar future adjoining developments could proceed.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

ABP ref PL29S.239806 (PA ref 3177/11): Permission was granted by DCC, and the decision upheld following an appeal to the Board, to construct a house to rear of No. 7 Ranelagh Road, Dublin 6. This decision issued on the 31st May 2012. And was extended to 13th July 2020.

ABP ref PL29S.238557 (PA ref 4072/10): Permission was refused by DCC, and the decision upheld following an appeal to the Board, to construct a two-storey house within the curtilage of a protected structure will access from Athlumney Villas, to rear of No. 7 Ranelagh Road, Dublin 6. The Boards reason for refusal was as follows:

Having regard to the restricted size of the site, and its location in a Residential Conservation Area, and in close proximity to protected structures, and to the pattern of development in the area, and to the provisions of the Dublin City Development Plan (2011 – 2017), it is considered that the proposed development, notwithstanding the quality of design, would by reason of its scale and height be visually obtrusive and would seriously injure the amenities of property in the vicinity, including the adjoining property to the north. The proposed development would, therefore, be contrary to the provisions of the aforementioned Development Plan, and to the proper planning and sustainable development of the area.

ABP ref PL29S.230156 (PA ref 5784/07): Permission refused and decision to refuse upheld on appeal for house with vehicular access to rear of 7 Ranelagh Road. The proposal was refused for two reasons as follows:

1. Having regard to its location in a Residential Conservation Area and in close proximity to protected structures, it is considered that the proposed development by reason of its design, scale and form, would be out of character with its context. The proposed development would be visually obtrusive, would seriously injure the amenities of the area and of property in the vicinity and would, therefore, be contrary to the

provisions of the Dublin City Development Plan 2005-2011 and the proper planning and sustainable development of the area.

2. It is considered that the overall provision of private open space serving the proposed development and the parent property at number 7 Ranelagh Road would fail to provide an adequate level of amenity for future occupants, having regard to the standards for residential development set out in the Dublin City Development Plan 2005-2011. The proposed development would seriously injure the amenity of future occupants and would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

National Planning Objective 13 provides that “in urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

- 5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments. The guidelines promote the principle of higher densities in urban areas and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.
- 5.2.2. Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site,

subject to a number of safeguards. Section 5.9 deals with Inner suburban / infill sites and notes that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the revitalising areas by utilising the capacity of existing social and physical infrastructure. Such development can be provided either by infill or by sub-division of dwellings.

5.3. Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011).

5.3.1. The proposed development involves works within the curtilage of a protected structure and as such, 'Architectural Heritage Protection, Guidelines for Planning Authorities' are considered relevant. These guidelines are issued under Section 28 and Section 52 of the Planning and Development Act 2000. Under Section 52 (1), the Minister is obliged to issue guidelines to planning authorities concerning development objectives:

- a) for protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest, and
- b) for preserving the character of architectural conservation areas.

5.3.2. The guidelines provide guidance in respect of the criteria and other considerations to be taken into account in the assessment of proposals affecting protected structures. The guidelines seek to encourage the sympathetic maintenance, adaption and re-use of buildings of architectural heritage.

5.3.3. Chapter 13 deals with Curtilage and Attendant Grounds and Section 13.5 relates to Development within the Curtilage of a Protected Structure and Section 13.8 of the Guidelines relate to Other Development Affecting the Setting of a Protected Structure.

5.4. Development Plan

5.4.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site is zoned Z2 - Residential Conservation Area

where it is the stated objective of the zoning 'To protect and/or improve the amenities of residential conservation areas.

5.4.2. Chapter 5 of the Plan deals with Quality Housing and the following policies are considered relevant:

- **QH21:** To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.
- **QH22:** To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

5.4.3. Chapter 11 of the CDP deals with Built Heritage and Culture and Section 11.1.5.4 deals with Architectural Conservation Areas and Conservation Areas where it is stated that DCC will seek 'to ensure that development proposals within all Architectural Conservation Areas and Conservation Areas complement the character of the area, including the setting of protected structures, and comply with development standards'.

5.4.4. The following policies are relevant in this regard:

CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

CHC2: To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:

- (a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest
- (b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances
- (c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces,

structure and architectural detail, fixtures and fittings and materials

- (d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure
- (e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works
- (f) Have regard to ecological considerations for example, protection of species such as bats.

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting
2. Re-instatement of missing architectural detail or other important features
3. Improvement of open spaces and the wider public realm, and re-instatement of historic routes and characteristic plot patterns
4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area
5. The repair and retention of shop- and pub-fronts of architectural interest.

Development will not:

1. Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area

2. Involve the loss of traditional, historic or important building forms, features, and detailing including roof-scapes, shop-fronts, doors, windows and other decorative detail
3. Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors
4. Harm the setting of a Conservation Area
5. Constitute a visually obtrusive or dominant form.

5.4.5. Chapter 16 of the CDP deals with Development Standards and section 16.10.2 deals with Residential Quality Standards for houses. This section deals with floor areas, aspect, natural light and ventilation, private open space and separation distances. Section 16.10.11 deals with Infill development while Section 16.10.16 specifically deals with Mews Dwellings.

5.5. **Natural Heritage Designations**

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (&pNHA) (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approximately 3.2km to the east of the site.

The closest pNHA is the Grand Canal which lies approximately 50m to the north of the site, while the North Dublin Bay pNHA lies approximately 3.5km to the north east.

5.6. **EIA Screening**

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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

This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The issues raised, reflect those raised with the Planning Authority during its assessment of the application and are summarised as follows:

- The impact of the development on the trees on the boundary. It is submitted that two of the trees identified on the tree survey are multi-stemmed / forked and straddle the boundary of the appellants property, making them as much his property as the applicants.
- The applicant has no authority to fell trees or parts of trees that are within the appellants property. Permission should not be granted for a proposal that is dependent on felling trees on adjoining property.
- The development would represent over-development of a constrained site that forms part of the curtilage of two protected structures.
- The over-development manifests in the schemes substandard provision and quality of private open space for each unit. The open space indicated on the plans include the bin storage areas and does not take into account the Councils requirement for bicycle spaces.
- None of the open space areas are accessible from the living areas, only via bedrooms and the front door. Both areas are overlooked from the public road.
- The open space area for house B is totally in shadow and the garden for house A is negatively affected by overshadowing with only a small provision of sun at 12 noon.
- This is the fifth application for development at the site with only 1 having been granted permission. The permission was for a smaller house, with 1 bedroom and a floor area of 90m².
- Permission was refused on three previous occasions, including by the Board.

- Under PL29S.238557, the Board refused permission in terms of visual impact, for a smaller development on the site, with the current proposal essentially the same as that refused.
- The development would negatively affect the residential amenity of the appellants property by reason of overshadowing and overlooking.
- The CIF building visually dominates the area and will overlooking without obstruction, the proposed development, failing to provide an adequate level of amenity or privacy to future occupants.
- Should the Board elect to grant permission, it is requested that a condition be attached that requires a minor change to the site layout plan to also provide pedestrian access to the rear of No.5 Ranelagh Road, to facilitate a potential future comparable residential development at the rear of the appellants property. A draft condition is included.
- It is submitted that if the proposed development is acceptable, it is reasonable to conclude that a similar/identical layout should also be permitted at the rear of No. 5. The provision of a pedestrian access would facilitate that and also ensure a coordinated approach to the development of the lands.

6.2. Planning Authority Response

None.

6.3. First Party Response to Third Party Appeal

The first party response to the third-party appeal submits that the motivation for the appeal is apparent from the conclusion which indicates that the appellant would be satisfied with a grant of permission but subject to that decision making provision for pedestrian access to his site. In this context, it is submitted that the other grounds of appeal are vexatious and should be dismissed. The remainder of the response is summarised as follows:

- It is not a matter for the Board to secure access to the appellants property, as such an arrangement is to his significant benefit but comes at the expense of the applicants' property.

- There is no legal right of way to support the condition requested.
- It is not considered reasonable and is prejudicial in that there is no planning permission on the adjoining site and it is not possible to prejudice the outcome of such an application were one made.
- Should the appellant wish to develop his site, it is incumbent on him to engage with the applicant.
- The trees on the site are within the application site. The impact of the development has been considered by the PA.
- The development can be undertaken without impacting on the appellants trees located within his property other than cutting or trimming trees which over-sail the current application site. The legal ownership of the trees is not a matter for the Board.
- Claims of over-development should be considered in the context of the implied intentions of the appellant himself to develop his site in a similar manner.
- The Planners Report has considered all of the relevant planning requirements and commented favourably on the design and materials proposed as well as the relationship of the development to the two protected structures fronting Ranelagh road.
- The level of open space is considered to be more than adequate in terms of quantity and quality and compares favourably to many recent similar infill developments in the area.
- Overshadowing of the site by the CIF building has been considered in the design of the development.
- In terms of the comparison made with previous applications, it is submitted that it is not like for like.
- The development will not overshadow the appellants property with loss of amenity considered negligible.
- Potential overlooking has been mitigated by window position, differing ground levels, screen planting and other details.

It is requested that the Board uphold the PAs decision to grant permission and to reject the appeal.

6.4. **Observations**

None.

7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of previous uses on the site, together with uses in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. General Compliance with National Guidelines & Standards and the South Dublin County Development Plan
2. Impact on Architectural Heritage
3. Visual & Residential Amenity issues
4. Other Issues
5. Appropriate Assessment

7.1. **Compliance with National Guidelines & Standards and the Dublin City Development Plan:**

- 7.1.1. Given that the subject site is located on lands zoned for residential purposes, the principle of development at this location is considered acceptable and in compliance with the general thrust of national guidelines and strategies. The Sustainable Residential Development in Urban Areas (DoEHLG, 2009) guidelines updated the Residential Density Guidelines for Planning Authorities (1999) and continue to support the principles of higher densities on appropriate sites in towns and cities and in this regard, I consider that it is reasonable to support the development potential of the subject site in accordance with said guidelines and in this regard, I have no objection to the proposed development in principle.

- 7.1.2. In terms of compliance with the Dublin City Development Plan, the Board will note the location of the subject site within the city centre and in an area zoned Z2 - Residential Neighbourhoods (Conservation Areas) where the following objective is applicable; 'To protect and/or improve the amenities of residential conservation areas.'. Residential is a permissible use within this zoning category. In this regard, I am satisfied that the proposed development is acceptable in principle. In addition, site specific issues are also required to be considered and I will address these issues further in this report.
- 7.1.3. Chapter 16 of the CDP deals with Development Standards and section 16.10.2 deals with Residential Quality Standards for houses. This section deals with floor areas, aspect, natural light and ventilation, private open space and separation distances. Section 16.10.11 deals with Infill development while Section 16.10.16 specifically deals with Mews Dwellings. The Plan requires that infill and mews development should meet the stated criteria. In this context, I am generally satisfied that the circumstances of the subject site have been considered in the overall proposed development design and layout. The development in principle, can be accommodated on the site and provide for an adequate set back from the existing residential properties and Protected Structures adjacent.

7.2. Impact on Architectural Heritage

- 7.2.1. It is the stated policy of Dublin City Councils Development Plan, Policy CHC1 refers, to seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city. In addition, Policy CHC2 seeks to ensure that the special interest of protected structures is protected. The Board will note that all houses in the terrace on Ranelagh Road are protected structures. Therefore, it is necessary to consider the impact of the proposed development on the subject building, as well as adjacent protected structures.
- 7.2.2. The subject site comprises the curtilage of 2 protected structures, No. 6 & 7 Ranelagh Road, RPS refs 6958 and 6959. In accordance with the Planning & Development Act, 2000 as amended, a protected structure includes the interior, land lying within the curtilage and any other structures lying within that curtilage and their interiors and all fixtures and features which form part of the interior or exterior of any

structure. The proposed development will result in the loss of a large part of the original gardens to the west of the Protected Structure, as well as the removal of the last part of the boundary wall which divides the two sites. The Board will note that the proposal does intend works to the houses, which are currently occupied.

7.2.3. Policy CHC2 of the Dublin City Development Plan sets out a number of criteria for works to protected structures, including part (d) which states Development will conserve and enhance Protected Structures and their curtilage and will:

- (d) Not cause harm to the curtilage of the structure; therefore, the design, form, scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure

7.2.4. The proposed development seeks to carry out works within the original curtilage of the protected structures, which is currently overgrown and unkempt, and construct two new houses which will include the loss of trees. I propose to address the matter of tree loss further below. In terms of impact to the original fabric of the Protected Structures, it is noted that much of the primary wall dividing the gardens has already been removed. The calp limestone wall to the side elevation is to be retained and will have its existing strap pointing removed and replaced with suitable lime-based mortar. I note the comments of the Dublin City Conservation Officer in this regard and would conclude that there is no objection to these elements of the works, subject to compliance with the requirements of the Conservation Officer.

7.3. **Visual & Residential Amenity issues**

7.3.1. With regard to the proposed design of the houses, the development proposes the construction of two contemporary, two storey houses which will rise to an overall height of 6.4m in total. The houses will have a total floor area of 110m² and 112m². The buildings include the installation of large rooflights which will provide additional light to the first-floor open plan living rooms and kitchen areas. The buildings will be finished with a select buff brick with a decorative brick screen with glazing behind on the southern elevation of the proposed first floor study, and timber windows and doors. The roof will comprise smooth natural slate with the slates to be laid in a

diamond formation. The original boundary wall to the road is to be retained and repaired as discussed above.

- 7.3.2. The proposed houses will provide accommodation over two floors with the ground floor comprising a bathroom and two bedrooms, one ensuite, both of which will face onto a proposed garden. A garden area of 14.4m² for House A and 12.1m² is proposed to be accessed via one of the bedrooms. To the front (east) of the houses, an additional front garden area is also proposed at this level, 26.4m² for House A and 27.7m² for House B. At first floor level, both houses propose large open plan living / kitchen / and dining areas with a floor area of 44.6m² for House A and 43.75m² for House B. A 12.3m² study is also proposed at this level for both houses. No car parking or vehicular access is proposed for either house, and access will be via a pedestrian access off Athlumney Villas.
- 7.3.3. In terms of residential amenity, I am satisfied that the proposed houses provide for adequate accommodation and space which exceeds the minimum residential standards required in the Dublin City Development Plan. I am also satisfied that the development proposes adequate private amenity spaces for future occupants while retaining an acceptable level of private amenity space for the existing houses fronting onto Ranelagh Road. While I acknowledge that the separation distance between the proposed houses and the existing houses may fall short of the recommended 22m, I am satisfied that the overall design of the proposed houses has addressed any potential for significant overlooking through a variety of means including window locations and provision of brick screen features, as well as landscaping to provide enhanced privacy.
- 7.3.4. The Board will note that the third-party appellant raises concerns in terms of the density of the development proposed and the potential impacts arising with regard to overshadowing. The proposed development if permitted, will result in a plot ratio of 0.98 and a site coverage of 55.6%. Having regard to the location of the site within Zone 2 of Dublin City, the Dublin City Development Plan provides that a plot ratio of between 0.5-2.0 and site coverage of 45% is appropriate. In this regard, the development is deemed acceptable in terms of plot ratio and is slightly higher than the recommended site coverage. Having regard to the context of the subject site, I am satisfied that the density as proposed is acceptable.

7.3.5. With regard to overshadowing, I would note that the presence of the CIF building as well as the existing trees on the site and adjacent to the site. The Shadow Analysis submitted in response to the PAs further information request shows that the existing CIF building overshadows the site during the afternoons due to its western aspect. The analysis notes that the proposed development will not affect the windows of the existing properties to the north or east but that part of the rear garden of No. 5 Ranelagh Road will experience some overshadowing. The area of overshadowing will occur in the vicinity of the current trees which are to be removed to accommodate the proposed development. Having regard to the location of the subject site within Dublin City, I am satisfied that the proposed infill development is acceptable and will not significantly impact on the existing residential amenities of the area.

7.3.6. I also note the location of the development site in terms of the City Centre and the wide variety of amenities and public transportation links available in the immediate vicinity. I am satisfied that no car parking is required for this small city centre development having regard to the proximity of the site in terms of the Charlemont Luas station on the Luas Green Line located just 200m from the site, as well as the proximity of the site to the Bus Connects Core Bus Corridor no. 12. St. Stephen's Green lies within 1km of the site. I am further satisfied that adequate provision has been made for the storage of bicycles. In principle, I have no objections to the proposed development as presented.

7.4. Other Issues

7.4.1. Impact of Development on Trees

A primary concern arising in the third-party appeal relates to the impact of the development on trees. I note that the appellant has indicated that as the trees oversail his property, he has as much title to them as the applicants. It is further submitted that the applicant has no authority to fell trees or parts of trees that are within the appellants property. I note that the first party has responded noting that the development can be undertaken without impacting on the appellants trees located within his property other than cutting or trimming trees which over-sail the current application site.

Having regard to the information submitted to the Board, I am satisfied that the proposed development requires the removal of 3 identified trees, none of which appear to be located within the appellants property. I note that the tree on the most north eastern area of the site is located on the boundary of the site. The submitted Arboricultural Impact Assessment submitted notes that there are 2 mature trees within adjacent sites and although the roots of one extends into the application site, it is submitted that it will not be impacted as a front garden and path are proposed in the area. In addition, a tree located within the boundary of no. 6 Ranelagh Road is to be retained.

The removal of the trees, while unfortunate, is considered acceptable in this instance and I note that the existing tree within the boundary of no. 6 Ranelagh Road to be retained will provide an element of screening from the rear of the adjacent properties to the proposed development. I would also consider that the legal ownership of the trees is not a matter for the Board.

7.4.1. Other Third-Party Issue

The Board will note that the third-party appellant has requested the inclusion of a condition which requires the applicant to provide access to his rear garden in order to facilitate the future potential development of his site in a similar fashion to that proposed by the current application. I would not consider that this is a matter for the Board and would consider that any future application for development will require to be considered on its own merits at the time of application. I do not propose to consider this matter further.

7.4.2. Servicing of the site

No issues arise in relation to the servicing of the proposed development.

7.4.3. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

In terms of the S49 Luas Cross City Supplementary Development Contribution Scheme, section 10 of the scheme sets out the rate of the levy applicable, including residential at

€2,000 per unit. The subject site lies just outside the red line boundary of the S49 Scheme area.

7.4.4. **Appropriate Assessment**

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (&pNHA) (Site Code: 000210) and the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located approximately 3.2km to the east of the site. The closest pNHA is the Grand Canal which lies approximately 50m to the north of the site, while the North Dublin Bay pNHA lies approximately 3.5km to the north east.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also 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.

8.0 **Recommendation**

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 **Reasons and Considerations**

Having regard to the Objectives of the National Planning Framework, and the zoning provisions of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of cyclist and pedestrian safety and would not seriously injure the visual and residential amenities of adjoining properties and the amenity of future occupants.

The development is also considered to be justified in accordance with:

- (a) Government policy to ramp up delivery of housing from its current under-supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, and
- (b) Objective 13 of the National Planning Framework,

which supports denser residential development on public transport corridors within the built-up area of Dublin city and its suburbs, as is proposed in this case. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further information submitted on the 1st day of October 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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Prior to the commencement of any development on site, a method statement for the raking out and re-pointing of the stonework in the historic boundary walls, including a full photographic record and schedule of any repairs, shall be submitted for the written agreement of the Dublin City Council Conservation Officer.

Reason: To ensure that the integrity of the historic structure is maintained and that the structure is protected from unnecessary damage or loss of fabric.

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 of the Protected Structures 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 and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed shall be recorded prior to removal, catalogued and numbered.
- (c) All existing original features shall be protected during the course of development.

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. Water supply and drainage arrangements, including the 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.

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

development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

7. The existing trees in the vicinity of the site shall be adequately protected during the period of construction and measures shall include a protection fence with no construction work or storage carried out within the protective barrier.

Prior to the commencement of any development on site, details, including size, species and location, of the 2 no. specimen trees to be planted within the front gardens of the permitted development shall be submitted for the written agreement of the Planning Authority. The implementation of the landscaping plan shall take place in the first planting season following completion of the development and any trees that die or are removed within 3 years of planting shall be replaced in the following planting season.

Reason: In the interest of the protection of residential and visual amenity and sustainable development.

8. 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.

A. Considine

Planning Inspector

06th March 2021