



An
Bord
Pleanála

Inspector's Report

ABP-309235-21

Development	Demolition of a single and two-storey extension and boiler house, widening of vehicular entrance and construction of a new single storey extension and construction of 2 no. houses in existing rear garden.
Location	36 Oulton Road, Clontarf, Dublin 3.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	WEB1736/20
Applicants	Fergus and Noleen Caverly
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	First Party & Third Party
Appellants	Fergus and Noleen Caverly Christopher V S and Valerie Doyle Conor and Mairead O' Sullivan Dave and Julie Walshe and Others
Observer	Cllr. Deirdre Heney

Date of Site Inspection

21st April 2021

Inspector

Máire Daly

1.0 Site Location and Description

- 1.1. The subject site (0.1185ha in area) is located on the western side of Oulton Road, approximately 220m north of the junction with the Clontarf Road (R807 regional road), circa. 4km northeast of Dublin city centre. The junction with the Kincora Road is located approx. 45 metres to the north of the site entrance.
- 1.2. The site currently accommodates a two-storey semi-detached dwelling house, originally constructed in the 1930s and featuring bay windows, a hipped style roof and a combination of dashed and red brick finish. Oulton Road is characterised by these type of semi-detached dwelling houses, set on substantial plots, with the current site extending 80 metres from the rear wall of the house to the end of garden (western boundary). The rear gardens of 9 houses (no. 20 to no. 36 Kincora Road) run along the northern boundary of the subject site's rear garden. A smaller site with a single storey dwelling located on it, is located to the immediate north of the subject site, with its entrance facing onto Oulton Road. This dwelling house was developed in the rear garden of no. 38 Kincora Road circa. the year 2000 .
- 1.3. The front garden of the current site has been surfaced and set with a gravel finish which provides an area to accommodate off street parking for up to four cars. An access gate exists to the northern side of the dwelling house, which provides a link from the front of the house to the rear garden. The side access is partially covered and currently provides an area for storage and a clothes line. The existing rear garden of the site is relatively flat and appears to have been recently cleared of a number of trees with cut trunks and stumps visible. The garden is bound to the north by recently erected concrete post and wooden rail fencing and to the south by an existing blockwork wall. The adjoining gardens to the south at no's 34, 32 and 30 Oulton Road mirror the long, narrow garden on the subject site and also possess mature tall trees and lower level vegetation and lawn. 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 existing single and two storey extension to the side of existing house and demolition of detached boiler house (all elements combined total of c. 41.5sq.m),
- Widening of existing vehicular entrance from 3.4m to 5.5m and associated amendments to front boundary.
- Construction of a new single storey extension to the rear (circa 30sq.m) to the existing house (House A), with elevational changes and new rear boundary wall also proposed.
- Construction of 2 no. new detached three bedroom, two-storey dwelling houses. House Type B (144 sq.m gross floor area with a ridge height of 7.9 metres) and House Type C (142sq.m gross floor area with a ridge height of 7.89 metres).
- Provision of a new access road and associated footpaths, bin store area, all associated site and infrastructural works including foul and surface water drainage, surface car parking, boundary walls and landscaping.

2.2. In addition to the standard planning application documentation and drawings, the application was accompanied by the following:

- Sunlight Analysis Report.
- Civil Engineering Report including an assessment of Foul and Surface Water Drainage, Water Supply, Traffic Assessment and Flood Assessment.
- Social Housing Exemption Certificate under Section 97 of Planning and Development Act 2000 (as amended).
- Drainage Record Map.

2.3. The Board should note that as part of the 1st party appeal design revisions have been submitted as illustrated on Drawing no. 1928-AP-001 which will allow for the increase in width of the rear laneway, which is noted to now serve proposed House C only.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dublin City Council issued a notification of decision to grant permission for the proposal in December 2020 subject to 11 no. conditions.

The following conditions are of note in the context of the grounds of appeal:

- Condition no.4: relates to the omission of House C from this permission and incorporation of its former proposed area, including its vehicular access, into the site area/ rear garden area of House B. Revised plans, drawings and particulars showing the above amendments to be submitted to, and agreed in writing by the Planning Authority.
- Condition no.5: relates to the developer entering into an agreement with the planning authority, pursuant to section 47 of the Planning and Development Act, 2000 (as amended), which shall allow for provision of shared access over the proposed access way and also the provision for facilitating the possible future development of lands to the west and south of the development.
- Condition no.6: Relates to the principle house on site and includes for a maximum vehicle entrance width of 3 metres, maximum one number car parking space in front garden and a new 2 metre high block wall to surround the rear garden of the principal dwelling.
- Condition no.7: Relates to the glazing set behind the brick 'hit & miss' treatment to House B's southern 1st floor opes and states that this shall be permanently fitted with opaque glazing.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (December 2020) reflects the decision of the Planning Authority. The Planning Officer notes the following in their report:

- The proposed development would meet the minimum internal space standards for the existing dwelling and for the two additional houses as

required under the under Table 5.1. and Section 5.3 of Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities’, DoEHLG, 2007’ including minimum room sizes, storage space and private open space allocation.

- The planning history of the development of backland sites in the vicinity indicates that An Bord Pleanála have approved development to the rear of houses and have overturned the decision of the Planning Authority to refuse planning permission. The Planning Authority has approved backland development subsequently under plan ref no. 2430/18 and plan ref no. 2442/176 following the decision of An Bord Pleanála to overturn the decision of the Planning Authority to refuse permission under Plan ref no. 3842/14, ABP ref no. PL29N.244546.
- The applicant has submitted a ‘Sunlight Analysis’ report with the application. The report concludes that based on the data and outlined definitions, none of the properties adjoining no. 36 Oulton Road will be noticeably impacted by the proposed development in terms of sunlight access. The most affected properties are no. 24 Kincora Road and no. 30 Kincora Road. No. 30 Kincora Road has a large extension to the rear with a covered outdoor area which blocks a considerable portion of their own sunlight and while certain hours do go below the recommended reduction of 0.8 in these properties, in both instances, the criteria of the 2 hours of sunlight on at least half the garden is fulfilled. The gardens to the rear (north) of no.38 Oulton Road (subject site) will actually benefit from the demolition of the existing first floor extension and converted garage and therefore allow more direct sunlight into their private amenity space.
- The separation distances between the proposed additional houses and the existing houses in the vicinity (Kincora Road) are adequate as set out under Section 16.10.2 (Residential Quality Standards –House) of the Dublin City Development Plan 2016-2022.
- Given the deep recessed and vertical louvre design of the first-floor windows of House type B and the oblique views that would be possible into the long

rear gardens of those houses on Kincora Road, no excessive overlooking is expected from this property.

- However, issues were identified with the location of the first-floor side windows on House C given that they are within 4 metres from the rear garden of no. 34 Oulton Road.
- With regard to future developments to the rear of the other dwellings along Oulton Road (nos. 34, 32, and 30) and the indicative masterplan provided by the applicant, given the separation distances between these potential two additional rows of two storey houses (14 metres approx.), it would be unlikely that such a development would be considered acceptable.
- In the event that House C is granted it is recommended that its eastern 1st floor open be treated so as to obviate close range overlooking of House B's rear/western garden area, while House B's eastern 1st floor window shall be treated that there is no direct overlooking of House A's residual rear garden area.
- The Transportation Planning Division (TPD) recommendation of refusal relates to House C only. There is no apparent objection to House B which could be accessed safely and would be viable having regard to the TPD report.
- The further development of adjoining sites to the south would still be possible were House B to be developed.
- The proposed rear extension to the existing dwelling at no. 36 Oulton Road is considered acceptable and consistent with Section 16.10.12 of the development plan. However, the proposed off-street car parking to the front of this house is excessive and should be reduced to one no. car space only 3 X 5 metres in size. Access to this parking area from the private side access laneway is considered acceptable.

3.2.2. Other Technical Reports

- Drainage Division – DCC Report dated 05/11/20 – no objection subject to conditions.

- It was however noted that records of public surface water sewers are indicative and must be verified on site and that the developer must carry out a comprehensive site survey to establish all public surface water sewers that may be on the site.
- A number of conditions were attached to this report including a requirement for a Flood Risk Assessment.
- Transportation Planning Division – DCC Report dated 01/12/20 –
 - Previously, concern was expressed during pre-planning about the inadequate width of the access road to serve the proposed dwellings.
 - The access road of 2.7metres between House B and House C is not adequate.
 - The proposed increase of the entrance to 5.5m is considered excessive and above the max 3.6 metres permitted under the Development Plan.
 - The proposed traffic light system on the access road is considered inappropriate for a development of this scale.
 - It is acknowledged that emergency vehicles cannot access the dwelling to the rear (House C) and that there is a proposal to include the provision of a new 100mm pipe for fire hydrant to the front of House B.
 - In relation to traffic safety and access to the subject site, it is considered that provision could be made for one additional dwelling to be accommodated on the site i.e. House B.
 - There is adequate access from the side of the existing dwelling to House B and subject to amendments in relation to the exact siting and location of the house, sufficient manoeuvrability can be accommodated on the site for vehicles from House B.
 - Concerns expressed in relation to the proposed access arrangements for the further development of other similar houses to the south as illustrated on the indicative masterplan.

- This division does not support the provision of a second dwelling (House C) at this location due to the inadequacy of the access road serving same and recommended that this part of the proposed development be refused. There is no apparent objection to House B.

3.3. Prescribed Bodies

- Irish Water – No response received.

3.4. Third Party Observations

3.4.1. Twenty third-party observations were submitted in opposition to the proposed development, predominantly from residents of the local area on Kincora Road and Oulton Road. The issues raised in the submissions can be collectively summarised as follows:

- The development is piecemeal in nature and would conflict with the existing pattern of development in the area. The subject proposal is not in accordance with the zoning objective for the site or surrounding area.
- Overdevelopment, proximity to nearby homes and loss of amenity.
- Impact on Residential Amenity – Overlooking, visual impact, boundary treatment and devaluation of surrounding properties.
- Site too narrow for scale of development, proximity to adjoining properties.
- Overshadowing due to excessive height and loss of daylight.
- The proposal will compromise the security of adjoining properties.
- Site boundary/land registry issues.
- Impact from substantial removal of trees on site prior to any submission of application, no tree survey was submitted or assessment of impact on habitats or species (including bats).
- Traffic impacts - the development will lead to traffic congestion at the junction with Oulton Road and Kincora Road. In addition, there will be noise disturbance as a result of the new entrance and access road. Also, inadequate access to site for emergency vehicles.

- Concerns regarding drainage, water pressure and ability of the existing sewage system to service an additional 2 dwellings.
- Precedents quoted by applicant are inappropriate and refer to larger more appropriate infill and backland sites. The following decision issued by An Bord Pleanála should be considered ABP Ref. 307225-20 (No. 52 Copeland Grove, Dublin 3), this development for 3 no. houses was refused based on the unacceptable conflict between vehicular traffic and pedestrian users which would endanger public safety by reason of traffic hazard. The proposed development would be contrary to Section 16.10.9 of the Dublin City Development Plan 2016-2022 regarding the development of corner/side garden sites.

4.0 Planning History

4.1. Appeal Site:

- 4.1.1. Dublin City Council (DCC) Ref: PAC No. 0059/19 - Pre-planning discussions between representatives from the planning authority and the applicant were undertaken in February 2019 in order to discuss the proposal and address any potential issues. Key issues raised during these discussions related to provision of adequate private open space for the proposed 3 no. dwelling houses on site, protection of residential amenities of neighbouring properties – outlook, daylight and sunlight (BER Guidelines) and parking provision on site.
- 4.1.2. DCC Ref: P4316 - A Certificate of Exemption under Section 97 of the Planning and Development Act 2000 (as amended) was issued for the site in September 2020.
- 4.1.3. The following applications relate to the subject site:
 - P.A. Ref: 1192/94 – Permission granted in September 1994 for the conversion of garage, extension to kitchen and bedroom at first floor and erection of boiler house.
- 4.2. Other relevant planning history:
 - Rear of 38 Kincora Road, Clontarf, Dublin 3 (adjoining site to north)

P.A. Ref. 1546/99 – Permission granted in August 1999 for a single storey mews type cottage to the rear of no. 38 Kincora Road with a new vehicular entrance onto Oulton Road.

- 12 Kincora Road, Clontarf, Dublin 3 (adjoining site to the west)

P.A. Ref. 1313/03 – Permission granted in September 2003 for a new one and a half storey detached dwelling at rear & demolition of single storey side extension (to form access to rear).

- No. 34 Oulton Road, Clontarf, Dublin 3 (adjoining site to south)

P.A. Ref: 2048/12 – Permission granted in April 2012 for the demolition of existing single storey extension to rear (8sqm) 2. Construction of new single storey extension (32sqm) to rear and 3. conversion of existing garage with new two storey bay window to front.

- 29 Victoria Road, Clontarf, Dublin 3

ABP Ref: PL 29N.307116 - Permission granted by the Board in October 2020 for the subdivision of existing house (protected structure) on site and construction of 2 no. two storey semidetached houses to the rear of a protected structure at as set out on drawing numbers, 005 Rev A, 012 Rev A and 032 rev A of the planning application submission dated 9th of September 2019. The Board required the two proposed semidetached dwellings be reduced from three storeys to two storeys.

- 52 Copeland Grove, Dublin 3

ABP Ref: PL 29N.307225 - Permission refused by the Board in October 2020 for 3 no. 2-storey dwellings & demolition of part of existing dwelling. The reason for refusal related to the restricted site access arrangements which would have required the use of a pedestrian laneway which is also a public right of way to facilitate vehicular movements. Therefore, the development would have created an unacceptable conflict between vehicular traffic and pedestrian users and would have endangered public safety by reason of traffic hazard. As such, the proposed development would have been contrary to Section 16.10.9 of the Dublin City Development Plan 2016-2022.

- 27 & 29 Kincora Road, Clontarf, Dublin 3

P.A. Ref: 2430/18 - Permission granted by DCC in September 2018 which included for construction of five houses to the rear of nos. 27 and 29 Kincora Road including two pairs of two semi-detached two storey, four bedroom houses (177 sq.m each and parapet height of 6 metres), and (b) a single storey two bedroom bungalow (111 sq.m) all with private open space and car parking spaces.

- 19 Kincora Road, Clontarf, Dublin 3

ABP Ref: PL 29N.244546 – Permission granted by the Board in May 2015 for provision of a new part one and two storey dwelling (circa. 5.7m parapet height) to the rear of the existing property including first floor enclosed roof terrace, relocation and widening of existing vehicular entrance onto Kincora Road to provide vehicular access to two dwellings, new access lane and all associated site works.

134 & 136 Castle Avenue, Clontarf, Dublin 3

- ABP Ref: PL 29N.249017 – Permission granted by the Board in April 2018 for the demolition of a shed and widening of entrance, construction of 3 houses with roof light, new access road, new boundary treatment all to rear of no. 134 and 136 Castle Avenue.

5.0 Policy Context

5.1. National Policy and Guidance

5.1.1. National Planning Framework (NPF) 2040

- **National Policy Objective 3a** seeks to deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- **National Policy Objective 3b** seeks to deliver at least 50% of all new homes targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.

5.1.2. **Quality Housing for Sustainable Communities** – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007). The following sections are particularly relevant to the current proposal:

- Section 1.4 Detailed Considerations, Inspection and Report and Subsection 1.4.1 – Infill sites.
- Section 4.3.4 Densities – states '*Infill developments and urban redevelopment projects should respect the character of the existing neighbourhood*'.
- Section 4.3.5 Private Space states '*Provision for private open space should take account of the requirements of the Development Plan for the area*'.
- Table 5.1: Space provision and room sizes for typical dwellings.

5.1.3. **Sustainable Residential Development in Urban Areas** (Cities, Towns and Villages) Planning Guidelines, DEHLG, 2009.

- Section 5.9 Inner suburban/infill:
 - (i) Infill residential development – *In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.*

5.1.4. **Design Manual for Urban Roads and Streets** (DTTaS and DoECLG, 2019 (latest revision)).

5.1.5. **BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice**'.

5.2. **Development Plan**

5.2.1. 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*'.

5.2.2. **Chapter 5 Quality Housing**

- **Policy QH1:** To have regard to the DEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes

Sustaining Communities' (2007), 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), and 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009).

- **Policy QH8** - To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.
- **Policy QH13** - Housing design compatible with 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007).
- **Policy QH21** - 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'.
- **Policy QH22** – To ensure that new housing development close to existing houses has regard to the character and scale of existing houses unless there is a strong design reason for doing otherwise.

5.2.3. **Chapter 16 – Development Standards**

- **Section 16.2.1 – Design Principles**
- **Section 16.2.2 – Design Standards – Sub section 16.2.2.2 Infill development**
 - Within terraces or groups of buildings of unified design and significant quality, infill development will replicate and positively interpret the predominant design and architectural features of the group as a whole.
- **Sections 16.2.2.3, 16.10.12 and Appendix 17 - Alterations and Extensions**
- **Section 16.5 – Plot Ratio.**
- **Section 16.6 – Site Coverage**
- **Section 16.10.2 Residential Quality Standards – Houses** – sets out standards to be achieved in new build houses, including consideration of:
 - Floor space
 - Private Open Space – 10sqm per bedspace. Generally, up to 60-70 sq.m of rear garden area is considered sufficient for houses in the city.
 - Aspects, Natural Light and Ventilation.

- Separation distance – 22m sought between the rear of 2-storey dwellings.
- **Section 16.10.8 Backland Development**
 - The development of individual backland sites can conflict with the established pattern and character of development in an area. Backland development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. Applications for backland development will be considered on their own merits.
- **Section 16.10.10 Infill Housing**

Infill housing should:

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

5.2.4. **Appendix 5: Roads Standards for Various Classes of Development** states:

- Where driveways are provided, they shall be at least 2.5m or, at most, 3.6m in width, and shall not have outward opening gates.
- The design standards set out in the planning authority's leaflet 'Parking Cars in Front Gardens' shall also apply.
- All road and footpaths shall be constructed to taking-in-charge standards. Where houses are provided on one side of the road only, the minimum width of road should be 5.5m with a 1.8 m footpath on the side next to the houses, and a footpath or rubbing kerb on the opposite side, depending on likely pedestrian usage.
- The planning authority will adopt a flexible attitude regarding restricted road widths over short lengths, where no other practicable solution is possible. However, this flexible attitude will not apply where it is not possible to provide an access of sufficient width to comply with safety and engineering requirements.

5.2.5. In this part of the city (zone/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.

5.3. **Natural Heritage Designations**

5.3.1. The site is not located within any designated Natura 2000 site. The nearest Natura sites to the south and south east are the South Dublin Bay and River Tolka Estuary SPA (004024), North Dublin Bay SAC (000206), and the North Bull Island SPA (004006) and all area separated from the subject site. The nearest site which is the South Dublin Bay and River Tolka Estuary SPA is approx. 300m to the south of the site.

5.4. **EIA Screening**

5.4.1. Having regard to the nature and scale of the proposed development, comprising 2 no. additional residential dwellings in an established residential area and an extension to the rear of an existing dwelling house, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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**

First Party Appeal

6.1.1. A first party appeal has been received from Hughes Planning and Development Consultants on behalf of the applicants Fergus and Noleen Caverly. The appeal relates to Condition no. 4 of the notification of decision to grant permission for the proposed development which relates to the omission of House C from the extent of the permitted development. The grounds of appeal are summarised briefly as follows:

- It is considered that Condition no.4 is unwarranted, and the reasoning applied by the planning authority in its decision to include same condition could have been dealt with by way of further information.
- Design revisions submitted with the appeal as illustrated on Drawing no. 1928-AP-001 have been implemented which will allow for the increase in width of the rear laneway, which is noted to now serve House C only. These revisions include an increase in width of access road to House C from 2.7m to 3.45m. This has been facilitated by:
 - a reduction of 150mm in the gable element of House B;
 - the relocation of House B 55mm closer to the northern boundary of the site (from 655mm to 600mm separation distance) and the removal of the road kerbs along the access road.
 - An additional car space has been provided to the front (west) of proposed House C.
 - In addition the communal bin area proposed under the original development has now been removed from the front of House C thus removing the need for the residents of House B to use the access driveway to the west and reducing the risk to pedestrians from traffic.
 - The access gate originally proposed in the boundary to the rear of House B has also been removed to reduce conflict with pedestrians also. The access gate to the rear of House A has also been relocated to the northern boundary for similar reasons.
 - In addition, two raised aprons have been added to the east of House B as a speed reduction measure.
- The proposal provides a high standard of residential accommodation and a density that ensures the increased efficiency of serviced land and is in accordance with national policy outlined in the NPF.
- A number of precedents in the surrounding area have been identified which illustrate the support of both the planning authority and An Board Pleanála for both infill residential development and the use of reduced width access laneways in certain circumstances. These include but are not limited to ABP

Ref. PL29N.249017 for 3 no. dwelling house to the rear of nos. 134 and 136 Castle Avenue, Clontarf and P.A. Ref: 2430/18 for 5 houses to the rear of nos. 27 & 29 Kincora Road, Clontarf, Dublin 3.

- The applicant seeks permission for the following features to be included: construction of additional House C to the rear (western) extent of the site and construction of an increased width internal access road to serve House C.

Third Party Appeals

6.1.2. 3 no. third-party appeals have been received in respect of the notification of decision of Dublin City Council to grant permission for the proposed development. These appeals were received from the following:

- Christopher V S and Valerie Doyle
- Conor and Mairead O' Sullivan
- Dave and Julie Walshe and Others

6.1.3. The following provides a summary of the issues raised. Further details/elaboration of the points raised is provided within Section 7 of this report.

- Impact on residential amenity – visually obstructive, overlooking, overshadowing, impacts on privacy and security.
- Overshadowing – reducing level of sunlight to gardens at no.30 and no.24 Kincora Road by more than 0.8 times its current value which is a contravention of the BRE guidance. An assessment of the potential loss of daylight and sunlight on existing houses was not carried out.
- Overdevelopment of the site, given its narrow width, minimal separation distances to existing boundaries (655mm) and the excessive heights proposed with House B almost 8m high.
- The development will depreciate the value of property in the area.
- The proposed development does not strike the balance required for development within this areas as outlined under the 'Guidelines for Sustainable Residential Development in Urban Areas'.
- Materially contravene policies and objectives of the Dublin City Development Plan 2016-2022 including zoning objective Z1.

- The subject site is not vacant or under utilised, it is a rear garden and the subject development is not a product of active land management, as such the proposal is contrary to Policy QH5 of the development plan.
- The proposal does not comply with Policy QH22 and has no regard to the impact on the character or scale of existing houses in the vicinity. The design principles outlined under Section 16.2.1 were not examined under the planner's report.
- Inadequate assessment of Backland Development referred to under Section 16.10.8 of the development plan.
- Site was extensively cleared of trees between December 2019 and early 2020 which removed any existing visual screening that may have screened the appellants houses from the proposed development.
- Condition No.4 allows no further consultation with the adjoining residents. Redesign of House B on site to a bungalow design would reduce the impact on adjoining properties considerably. In addition, if redesign is to occur then a min distance of 1.5m from the gable wall of House B and the rear boundary of Kincora Road should be required.
- Condition No.5 is totally unnecessary as there is no likelihood of any co-ordinated development in the future to the north or south of the subject site.
- No boundary details have been submitted with application. The current perimeter boundary fences are not considered acceptable from a security point of view and a 2m - 2.4m high masonry wall within the applicant's site is requested along both the northern and southern site boundaries.
- Precedents quoted by the applicant are irrelevant as they refer to much larger sites which are also more self-contained. The Board however should consider ABP Ref. 307225-20 which they refused based on the restricted site access arrangements.
- Legal/ownership issues and site boundary land registry queries.

- Traffic issues – busy junction at Kincora Road and Oulton Road located nearby with the addition of a children’s crossing/traffic warden managed crossing point.
- Details of pre-planning meeting from the current proposal were not made available by the planning authority upon request. Pre-planning notes sourced have inaccurate date reference.
- Flooding – history of flooding along Kincora Road and Oulton Road, though perhaps not within the garden of the subject site, the addition of hard surface area may exacerbate flooding downhill towards Dublin Bay. No calculations of the ability of soakaways to accommodate discharges from the site.
- Drainage – concerns raised regarding the capacity of the existing sewer system to deal with any additional loadings from the development.
- Environmental Impacts – No bat survey has been submitted to establish the presence or absence of bats in the trees that were removed. The development is contrary to the Habitats Directive in this regard. The remaining trees on site and their root systems (from any adjoining trees on no.34 Oulton Road) should be protected in accordance with Section 16.3.3 of the Development Plan.

6.2. Applicant Response

6.2.1. The applicant has responded to the grounds of appeal and this response (dated 25th February 2021) is summarised hereunder:

- The existing rear garden extending to an area of over 900sqm is considerably underutilised. The layout of the subject site lends itself to efficient infill development and also provides the opportunity to allow the development of further adjoining sites in the future.
- No specific objective relates to tree protection on the subject site.
- The proposed access road will provide access to the approved development only and is no way representative of a public road.

- The applicant requests the Board to have regard to the original title document and associate site map, attached in Appendix A of the applicant's response to 3rd party appeal.
- Newly constructed fencing along the northern boundary of the subject site was erected between February and April 2020 and is positioned within the application site and does not encroach on the adjoining sites to the north (rear gardens of houses along southern side of Kincora Road).

6.3. Planning Authority Response

- None received.

6.4. Observations

6.4.1. One observation was received on the appeal from Councillor Deirdre Heney. The following provides a summary of the points raised:

- Reiterates the surrounding residents' concerns regarding the negative impact the decision to grant permission will have on their quality of life and also the resultant overdevelopment of this tight backland site. In particular concerns in relation to overshadowing are highlighted and suggestions that a daylight/sunlight analysis should be provided to assist any assessment.

6.5. Further Responses

6.5.1. Further response to 1st Party Appeal against Condition No.4.

One further submission was received from Christopher V S and Valerie Doyle in response to the 1st Party appeal against Condition No.4. This can be summarised as follows:

- The appellant reiterates their objections to the proposed development and highlights that the modifications proposed by the applicant should be regarded as material in nature and therefore the applicant's appeal should be rejected by the Board.

- The width of the access road has only been minimally altered and remains too narrow for the development.
- The locations of House B and C on the developer drawings should only be properly defined by way of reference to the mutually agreed position of the southern boundaries of Kincora Road gardens.
- There are discrepancies between the measurements on the initially drawings submitted and those submitted as part of the appeal. It now appears that the site has grown in width.
- Proper access for construction and ongoing maintenance of both proposed houses is not available without infringing on 3rd party lands and therefore the appellants consider the proposed development sub-standard.

6.5.2. Further Response from Appellants to Applicants' response:

Two responses to the applicants' response have been received from

1. Conor and Mairead O' Sullivan; and
2. Dave and Julie Walshe and Others.

These responses are summarised hereunder:

- The appellants remain opposed to the development as originally submitted, and also the development permitted by DCC and the proposed amended proposal as submitted by the applicant's in their appeal.
- The appellants wish to reiterate their concerns previously raised and also raise new concerns in relation to the amended plans proposed by the developer.
- The proposed amendments to the design are of such a fundamental nature that they should have been presented to the Planning Authority in the first place as part of the normal planning procedures. Third parties have been denied the opportunity to comment on this new proposal. It is therefore submitted that the Board should reject the appeal as invalid because it seeks to modify the terms of the development.

- The proposed House B is relocated (under the applicants appeal to the Board) and is now located 50mm closer to the boundary with no. 30 Kincora Road.
- A daylight and sunlight assessment of the proposal has been submitted by the 3rd party appellants which confirms that the development of House B results in a breach of the minimum standard guidelines volume reducing the level of sunlight into the back garden of no. 30 by more than 0.8 times its current value.
- Major discrepancies are noted in the proposed development site width. While this may be deemed a civil matter it erodes credibility for the entire development proposal. A surveyor's report has been submitted with the 3rd party response to appeal which concludes that the existing post and panel fence and masonry walls have been constructed outside of the property boundary lines of no. 36 Oulton Road, however it is stated that in order to confirm the official legal boundaries that further investigation would be required including application to Land Registry for the deed of transfer/assignment.
- A suitable boundary wall of 2.4m in height and appropriate landscaping should be provided within the developer's site boundary.
- It is noted that no footpaths are provided as part of the development and that the newly proposed raised aprons may lead to access issues for certain mobility impaired users.
- Nothing has changed with regard to the DCC Roads Department's original refusal relating to the access of emergency vehicles to House C.
- The proposed 3.45m wide traffic tunnel to the south of House B is not accurate, as with the removal of the kerbing a total of 3.2m is the maximum achievable (2.7m plus 0.5m) see Engineers Drawing No. S1296-E-015 which accompanied the planning application.
- There is a pinch point measuring approx. 10.4m on the site which is incorrectly shown as 11.2m on first parties revised site plan.

- The precedents presented by the applicant are not comparable to the current site.

7.0 Assessment

7.1. First and third-party appeals have been lodged in relation to Dublin City Council's Notification of the Decision to Grant Permission, which included Condition no. 4 and the omission of House C from the proposal.

7.2. The proposed development has been amended by way of the applicant's appeal submission. In my opinion, the changes proposed are minor in nature and would not warrant a revised planning application and in addition I note that those 3rd parties that made initial submissions on the application have also commented on same proposed amendments and therefore have not been denied the opportunity to comment on the amended proposal. Notwithstanding the foregoing, my assessment considers the application de novo and also includes consideration of the amended scheme.

7.3. 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:

- Principle of the Development
- Backland Development, Design and Precedent
- Impact on Residential Amenity
- Access, Traffic and Parking
- Other Matters
- Appropriate Assessment

7.4. Principle of the Development

7.4.1. The site is subject to land use zoning "Z1" (Sustainable Residential Neighbourhoods) which has the objective "*to protect, provide and improve residential amenities*". Residential land uses are permissible in principle under this zoning objective. The subject site has an existing semidetached 4-bed dwelling house located on a generous site at 0.1185ha in area, as such, I consider that the rear garden is suitable to accommodate an increased density of residential development, as advocated under the development plan, national guidelines and the NPF.

- 7.4.2. The applicant proposes to reduce the size of the existing dwelling to allow for a new access laneway to be constructed along the northern boundary, which will in turn provide access to the proposed 2 no. dwellings House B and House C to the rear. A new ground floor extension is also proposed to the rear of the existing dwelling at no.36 Oulton Road.
- 7.4.3. I note that the floor area of each of the 2 no. proposed new dwellings exceeds the minimum standard of 92 sq.m for a 3Bed/5 person house as set out in the “Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities” (2007) at 144sq.m for House B and 142sq.m House C respectively, and also that the existing modified house at no.36 Oulton Road also exceeds the required standards at 128sq.m. In addition, I note that both proposed new houses B and C achieve the minimum standards for bedroom areas and aggregate living areas. The rear private amenity space to serve the proposed dwellings ranges from 65sq.m for House A (no. 36 Oulton Road) to 102sq.m for House B and 122sq.m for House C and as such, all comply with the standards set out under Section 16.10.2 of the Dublin City Development Plan 2016-2022.
- 7.4.4. The applicants argue that the proposal would ensure the type of compact growth which is sought through the NPF 2040, however the 3rd party appellants believe that the current site cannot be categorised as underutilised as it is an existing dwelling’s back garden. In my opinion, as the proposed development is located in an area zoned for residential uses, I would consider that the principle of development is therefore acceptable subject to the other detailed considerations outlined in the sections below.

7.5. **Backland Development, Design and Precedent**

- 7.5.1. Dublin City Development Plan 2016-2022 highlights in Section 16.10.8 that the City Council will allow for the provision of comprehensive backland development where the opportunity exists but also that such development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. Therefore applications for backland development should be considered on their own merits.
- 7.5.2. I note that the subject backland development proposal is not the first of its type within the immediate area and that a previous development for a single storey mews type

cottage under P.A. Ref. 1546/99 to the rear of 38 Kincora Road was approved in 1999. This development is now constructed to the immediate north of the subject site, with its approved vehicular entrance fronting onto Oulton Road to the immediate north of the proposed widened entrance for the subject appeal site.

- 7.5.3. In addition, I also note that a previous permission was granted by the planning authority on the adjoining site to the immediate west of the appeal site, to the rear of no. 12 Kincora Road (P.A. Ref. 1313/03) in 2003. Similar to the current application, access to this dwelling house was achieved through the demolition on the existing side extension on no.12 and construction of the access road along the western boundary to the rear site. The dwelling house approved however was a storey and a half dwelling with rooms within the roof space of same dwelling, thus reducing the overall ridge height of the dwelling.
- 7.5.4. The applicants in their appeal and their response to the 3rd party appeals refers to several examples where backland development has been previously permitted in the vicinity and while I acknowledge this, it is important to note that different developments on individual sites can result in different potential impacts and therefore each case should be assessed and determined on its own merits. An examination of these issues is carried out in detail below.

7.6. Impact on Residential Amenity

- 7.6.1. I note following a site visit and an examination of the submitted drawings that the rear garden is extensive at circa. 82m in length but is not entirely uniform in width, beginning to the rear of the existing dwelling at no.36 Oulton Road at a width of approx. 13m and shrinking midway down to the garden to a pinch point of approx.10.5m before expanding again to approx. 12m along the rear boundary. The grounds of the 3rd party appeals raised the limited site width as an issue, as well as concerns in relation to overlooking, overshadowing, overbearing impacts, loss of privacy, noise disturbance, loss of trees and biodiversity on site, devaluation of property value and contravention of development plan policies. I also acknowledge the concerns raised in relation to the site boundary issues. These issues are examined further as follows:

Overlooking

- 7.6.2. In terms of design, the two proposed new dwellings are of a 2-storey pitched roof, partly gable fronted design, with House C having a single storey rear element also. When looking west from the rear of the existing dwelling at No.36 Oulton Road, House B would have a proposed overall width of 7.4m (eastern elevation including front projecting element), with an overall two-storey depth of 14.18m (along the northern boundary) and a proposed ridge height of 7.9m. House C has an eastern (front) elevation width of 10.2m, a depth along the northern boundary of 13.9m (including the rear single storey element) and a proposed ridge height of 7.89m. The overall height of the existing dwelling on the site, which addresses Oulton Road is 8.51m, however given that the site falls by approximately 0.5 metres from back to front the ridge heights of both proposed new houses would appear at approximately the same height as that of no.36 Oulton Road.
- 7.6.3. The Board should also note that Oulton Road slopes downhill as one travels in a southerly direction towards Dublin Bay. Therefore the houses that are located to the immediate north of the site, along Kincora Road and the associated rear gardens of same houses which border the current site's northern boundary are located at a higher ground level and therefore have higher ridge levels than those houses located along Oulton Road. The dwelling houses to the immediate north of proposed House B are no.28 and no.30 Kincora Road, and those to immediate north of House C are no.20, no.22 and no.24 Kincora Road, all have similar ridge heights of approx. 8.8m. The separation distances between the proposed development and the existing houses opposing first floors varies due to the presence of rear extensions on the houses along Kincora Road but varies between 23m between the northern elevation of House B and no. 30 which is the shortest separation distance, to 28.5m between the northern elevation of House C and no.22 Kincora Road which is the greatest separation distance. I note that the only windows proposed on the northern elevations of House B and House C facing the rear of these properties at Kincora Road are to be stair landing windows, which are also proposed to be fitted with obscured glazing, therefore addressing any potential for overlooking. I also note that the applicant as part of their appeal has submitted amendment proposals which would see the northern elevation of House B moved 55mm closer to the boundary with no. 28 and no.30 Kincora Road, however notwithstanding this reduction in

separation distance the traditionally required 22m separation distance, outlined under Section 16.10.2 of the development plan, can still be met. I therefore have no concerns regarding overlooking of the rear of the properties along Kincora Road from the proposed northern elevations of House B or House C.

- 7.6.4. The windows located on the southern elevation of the proposed House B which face onto the garden to the rear of no. 34 Oulton Road are to have a hit and miss brick thus reducing possible overlooking but not entirely preventing it. I note that the planning authority attached a specific condition requiring that these windows on House B also be permanently fitted with opaque glazing. If the Board are minded to grant permission I would suggest that a similar condition be attached for both houses B and C, in the interest of the residential amenities of no. 34 Oulton Road.
- 7.6.5. In addition, the windows on both the eastern and western elevations of proposed houses B and C will have louvered windows, as illustrated on Drawing Number 1928-PL-008. These vertical louvres positioned to the outside of the deep recessed windows in my opinion will limit overlooking from the side windows of each dwelling to an acceptable level. The proposed rooflights on both proposed houses will provide additional natural light to both the northern and eastern rooms and in my opinion will not allow for any opportunity of overlooking.

Overshadowing and Overbearing Impacts

- 7.6.6. As part of the original application the applicant submitted a 'Sunlight Analysis' which outlined the predicted impact on 3rd parties existing access to sunlight, and whether the levels of future sunlight available to the adjoining gardens post development would comply with the best practice set out in BRE209 '*Site Layout Planning for Daylight and Sunlight, A guide to good practice*'.
- 7.6.7. I note that guidance on testing sunlight access to garden areas is provided in Section 3.3 of the BRE Guide. The potential for good sunlight amenity in outdoor spaces is assessed with regard to the area which is capable of receiving direct sunlight. The BRE Guide advises that an outdoor space will appear adequately sunlit through the year in instances where at least half of its area is capable of receiving two hours of direct sunlight on the 21st of March. It further goes on to state that '*If as a result of new development an existing garden or amenity area does not meet the above and the area which can receive 2 hours of sun on the 21st of March is less than 0.8 times*

its former value then the loss of sunlight is likely to be noticeable'. The applicant's submitted assessment concluded that the adjoining properties that would be most affected from the proposed development are no.24 and no.30 Kincora Road and that while certain hours do go below 0.8 of the former value, in both instances the criteria of the two hours of sunlight on at least half the garden is fulfilled on both sites. I also note that the rear garden area of no.30 has been reduced in size due to the addition of a part two-storey/part single storey extension to the rear of the house, therefore reducing the amount of private amenity space and perhaps highlighting the possible loss of sunlight even more.

7.6.8. I note the 3rd party appellants concerns in relation to the applicant's submitted assessment and the submission of their own 'Daylight and Sunlight Assessment' (dated February 2021). Their submitted report contains an assessment of the potential impact of the proposed development which includes for both House B and House C, on the houses/rear gardens adjoining to the north from no.s 20 – no. 34 Kincora Road, however it specifically concentrates on the rear garden of no. 30 Kincora Road and includes shadow casting diagrams for the 21st June and 21st December in addition to the 21st March. This report concludes that in March, House B would cast a shadow on approximately 30% of the garden of no.30 Kincora Road throughout the day. The appellant claims that as the proposed development reduces the available sunlight in the garden below 80% of its former value it therefore fails to meet the recommendations of the BRE guidelines. Following an examination of both submitted reports I would not agree with the appellant's statement and concur with the applicants' original assessment. While the availability of light to the rear garden of no.30 would be reduced, I see no evidence to suggest it will fall below the recommendations of the guidelines.

7.6.9. However, having further regard to the existing context, I am of the view that the proposed dwellings, given the length of their north facing elevations and the location and orientation of same within such close proximity to the northern boundary, as well as the proposed height of both houses at 7.9m and 7.89m respectively, would seriously injure the amenities of residential properties to the north by reason of their overbearing presence. It is my view that with a reduction in height, both proposed houses would assimilate much better into the subject site and reduce the dominance on the private amenity space to the rear of the houses along Kincora Road.

7.6.10. Therefore, I would recommend that if the Board are minded to grant permission for both dwelling houses B and C, that a condition be attached requiring the overall height of both houses be reduced to a maximum of 6.5 metres, through the incorporation of a contemporary flat or dormer type roof design which would allow for use of the roof space if necessary. Such a design in my opinion would be more appropriately fitting for this area and a change in roof profile design would greatly assist in visually minimising the dominance of the proposal, particularly given the backland nature of the development.

Boundary Treatment

7.6.11. Issues raised in relation to exact site boundary are a legal matter outside the remit of this appeal. This is a civil matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

7.6.12. I do note however that no definitive details have been presented by the applicant with regard to the proposed boundary finishes. Drawing Number 1928-PL-001 titled 'Planning Sheet 01' shows the existing boundary finishes on site which consists of a mixture of existing 1.6m to 1.8m high masonry walls along the southern boundary to 2m high post and rail fencing along the western (rear) and northern boundaries. The northern boundary however changes as one approaches the front of the site (Oulton Road) where an existing 3m high masonry wall is currently in place. The submitted original Site Plan/Roof Plan proposed (Drawing Number 1928-PL-002) detailed only the proposed boundary to the new rear garden of no.36 Oulton Road and the rear garden of House B, which are both to have new 2m high masonry walls constructed to enclose their respective private amenity space. I note that the 'Revised Site Plan/Roof Plan' (Drawing Number 1928-AP-001) submitted as part of the appeal documentation details no boundary finishes on the remainder of the proposed site. Therefore, in the interest of the privacy of the surrounding properties, as well as the residential amenities of the 2 no. proposed houses on site and the existing dwelling at no.36 Oulton Road, I would recommend that if the Board is disposed towards a grant of permission, that a condition be attached stipulating that all boundary treatments be agreed in writing with the planning authority prior to the commencement of any works on site. This would ensure that suitable materials and boundary heights can be incorporated into the development and ensure the privacy and amenities of all residents are protected.

7.7. Access, Traffic and Parking

- 7.7.1. The proposal provides for a new access road off Oulton Road via a proposed widened front entrance from no.36 Oulton Road. In an attempt to address the Transportation Planning Division's concerns in relation to the access arrangements, the applicants have submitted a revised site layout as part of their appeal. This revised layout proposes the relocation of House B 55mm closer to the northern boundary of the site, therefore increasing the space available to allow the access road to be widened. However this also reduces the separation distance between the northern elevation of the house and the boundary with no.28 and no.30 Kincora Road from 655mm to 600mm. In my opinion this is considered acceptable based on the stipulation that the overall height of House B is reduced to 6.5m (as outlined previously under Section 7.6.10 of this report), to therefore reduce the overall mass and sense of overbearingness of the building on the adjoining properties to the north. The applicants also propose to remove the originally proposed kerbing along the access road to House C and now propose a continuous permeable shared surface. The applicants also include a reduction of 150mm off the gable element of House B. The combination of these proposed revisions will in turn result in an increase in the access road width from 2.7m to 3.45m. I note Section 5.1 of Appendix 5 of the development plan allows for some flexibility in regard to restricted road widths over short lengths where no other practicable solution is possible. Section 4.4.1 of DMURS (2019) titled 'Carriageway Widths' states "*In new designs the standard lane width on Arterial and Link Streets should lie in the range of 2.75m to 3.5m. Within this range the preferred values are 3.0m and 3.25m*". Taking all these standards into account, I would therefore consider the proposed width of driveway acceptable given that it provides access to one dwelling house only i.e. House C. An adequate turning head is also provided to the front of House C which will ensure that cars can exiting this area in a forward-facing movement, thus reducing traffic conflict.
- 7.7.2. I note that as part of the original application the applicants also submitted a Schematic Site Plan (Drawing Number 1928-PL-009) which indicates suggested future development opportunity for the neighbouring sites to the south, this includes for the provision of a possible two way internal road system. However, this plan is for illustrative purposes only and speculative in nature and therefore I do not believe it can be considered as part of this appeal and would need to be assessed on its own

merits. Nevertheless, given that there may be opportunity for more comprehensive development of adjoining backlands in the future, I see merit as the planning authority had suggested in attaching a condition to allow for the provision for shared access if necessary in the future, and would suggest that in the interest of co-ordinated development that if the Board are minded to grant permission that a similar condition should be attached.

- 7.7.3. While I note the 3rd party appellants concerns regarding the proposed access and the comparisons they draw between the current proposal and ABP Ref. 307225-20 (no.52 Copeland Grove), in my opinion the access arrangements which are proposed in this instance are not reflective of this previous proposal. The appeal under ABP Ref. 307225-20 was refused based on restricted site access arrangements, which would have created a conflict between pedestrians and vehicular traffic by virtue of the use of a pedestrian laneway, which was also a public right-of-way. In the case of the current appeal, the internal roadway to be provided would be private and would be accessed via the existing entrance from no. 36 Oulton Road. As such, I do not consider that these applications are comparable.
- 7.7.4. In addition, I note that a separate 900mm wide footpath is to be provided along the initial section of the access road to provide added pedestrian safety. I also note that the rear garden access gate to no. 36 Oulton Road has been moved to exit onto this footpath which I consider an improvement to pedestrian safety. The applicants also propose to include minor alterations to the access road arrangements to the front of House B which include for raised aprons, which will act as a traffic calming measure along this bend. The originally proposed traffic light system which was considered inappropriate by the Traffic and Transport Division of DCC has been removed.
- 7.7.5. The proposed increase in width of the vehicular entrance onto Oulton Road from 3.4m to 5.5m is considered excessive and above the maximum permitted at 3.6m as outlined under Appendix 5 of the development plan. I would consider a maximum of 3.6m acceptable and believe this would also allow for sufficient manoeuvrability for cars to reverse into the car parking spaces to the front of the existing dwelling and exit in a forward motion. In this part of the city (zone/area 3), a maximum of 1.5 car parking spaces per house is the standard based on map J and standards within Section 16.38 of the Development Plan. Under the revised site plan submitted the applicants now propose to provide an additional car space to the front of House C.

Given the restricted nature of the site only one car space is to be provided to the front of House B, and a further two spaces are to be provided to the front of the existing house at no.36 Oulton Road, I consider this provision of car parking spaces adequate. I also consider that a sufficient turning area (as evidenced by the vehicular access and egress drawings for the car spaces related to each house) has been provided to the front of House C and note that the previously proposed access gate to rear garden of House B has now been removed, thereby in my opinion addressing any concerns in relation to pedestrian safety in this area.

7.8. Other Matters

Biodiversity and Tree Loss

- 7.8.1. The appellants have expressed concerns in relation to the previous removal of mature trees from the site prior to the submission of the planning application to the planning authority and also the impact that the proposed development may have on the root systems of existing mature trees in the rear garden of no.34 Oulton Road, which are located in close proximity to the southern boundary of the site.
- 7.8.2. While I acknowledge that there would appear to be evidence that significant site clearance has occurred, this occurred prior to the receipt of this appeal by the Board. I do however note that a significant number of existing mature deciduous trees are located in the rear garden of no.34 Oulton Road close to the boundary with the subject appeal site. I consider that the onus is on the applicant /developer to ensure that the proposed development does not impact adversely on the health and condition of these existing trees on the adjoining property and I would consider that the proposed development could be carried out while protecting these existing trees. However, I note that no landscaping plan has been submitted as part of the proposed development and believe that this could ameliorate some of the concerns highlighted by the appellants and may also contribute to enhancing biodiversity on site where possible. Therefore if the Board are minded to grant permission, I would suggest that a condition is attached requiring a landscape plan. This should include for the incorporation of native woodland tree species and biodiversity enhancement measures for the site and also details of measures to ensure protection of the root systems of any trees on adjoining properties that may be encountered during site works.

Drainage & Flooding

- 7.8.3. The 3rd party appellants have raised concerns with regard to previous flooding on Kincora Road and also the capacity of the existing sewer system to cater for the additional development of two houses on site. As part of the initial application a Civil Engineering Report was submitted, which detailed the site services associated with the proposed development. The proposed new foul sewer for the 2 no. new houses is to discharge to the existing foul manhole located on Oulton Road. As per revised site plan/roof plan (Drawing Number 1928-AP-001) the entire driveway area /access road would be constructed using permeable paving. Drawing Number S1296-E-010 titled 'Site Layout Plan and Drainage Layout' provides details of the three proposed deep soakaways, which are to be located in each of the rear gardens House A, House B and House C. All surface water from the proposed new houses and the new rear extension of the existing house, will discharge to these new soakaways which in turn have an overflow line running out of the site and discharging to the new surface water manhole located on Oulton Road. I am therefore satisfied that drainage on site has been adequately addressed as per the submitted engineer's report and drainage layout plan and that that necessary details and design and construction requirements can be dealt with by way of condition.
- 7.8.4. With regard to flooding, there is no history of flooding on site and I note from Drawing Number S1296-E-010 that the natural ground level of the site slopes downward from rear to front (west to east) and therefore the finished floor levels of House B and C are approximately 300mm higher than that of House A. The topography of the wider area then falls downhill towards Dublin Bay. While I note that a flood event was recorded in Kincora Park previously in 2004 (source: www.floodinfo.ie) this event did not impact the current appeal site and I also note that since then the local authority have put a number of flood defence assets in place in the area. In addition, coastal flooding events have been recorded along the Clontarf Road to the south of the subject site, with the closest low probability (Tidal AEP 0.1%) modelled extent of lands with a possibility of extreme coastal flooding located approximately 75m south of the subject site.
- 7.8.5. Therefore, based on the information presented, I consider the development as proposed is acceptable in terms of SUDS and best practice drainage requirements

and any flood risk issues and therefore should not result in any impacts on neighbouring properties.

Alterations to Existing Dwelling

- 7.8.6. In order to facilitate the vehicular access within the site, it is proposed to demolish part of the northern structure of the existing dwelling. This includes a sitting room/part kitchen area at ground floor level and a stepped first floor extension containing bedroom no.4. The revised side elevation will be finished in sand and cement render finish which will also match the rear elevation. A new single storey flat roof extension circa 30sq.m in area is also proposed to the rear. The extension which has a proposed height of 3.61m is to accommodate a sitting room/dining area, with rear sliding patio doors providing access to the proposed rear garden area. A new 2m high boundary wall is also proposed, which is to surround the rear garden, with a northern access gate onto the footpath which adjoins the shared access road. In my opinion, the proposed amendments and single storey rear extension are acceptable and sympathetic to the style of the existing dwelling and would not have a negative visual impact on its character, the streetscape or the residential amenities of neighbouring properties.

Property Devaluation

- 7.8.7. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that it would adversely affect the value of property in the vicinity.

7.9. Appropriate Assessment

- 7.9.1. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend that planning permission be granted subject to conditions.

9.0 Reasons and Considerations

9.1. Having regard to the zoning objective for the area, the existing pattern of development in the area, and to the relevant provisions of the Dublin City Development Plan 2016-2022 including policy regarding Backland Development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenity or character of the area or residential amenity of the 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.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 22nd day of January 2021, 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 heights of House B and House C shall have an overall ridge height/roof height of maximum 6.5 metres.
 - (b) The glazing set behind the brick 'hit & miss' treatment to Houses B and C's southern 1st floor opes shall be permanently fitted with opaque glazing.

- (c) The glazing at the landing/stairway levels on the northern elevations of Houses B and C shall be permanently fitted with opaque glazing and the windows shall have no opening parts.

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 development shall comply with the following requirements:
 - (a) The proposed new vehicular entrance and access road shall be used only to serve the three houses on site. Any future housing development off the access road shall require the vehicular access and laneway to comply with requirements under DMURS.
 - (b) The vehicular entrance onto Oulton Road shall have a maximum width of 3.6m.
 - (c) A maximum of five car parking spaces in total with sufficient on-site turning areas shall be provided on site.
 - (d) The footpath and kerb onto Oulton Road are to be dished and modified entrance is to be provided to the requirements of the planning authority.
 - (e) All costs incurred by the planning authority, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Reason: In the interest of orderly development and traffic safety.

- 4. No flat roofed area shall be used or accessed as a roof garden/patio.

Reason: In the interest of residential amenity.

- 5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
 - (a) Proposals for the planting and location of native tree species and biodiversity enhancement measures for the site; and

(b) Proposals for the protection of existing trees, including the root systems of trees located on adjoining lands along the southern and western boundaries of the site that may be encountered during site works and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established;

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

6. Details of the southern, western and northern boundaries to surround the site, including the exact height, location and materials to be used shall be submitted to and agreed in writing with the planning authority before the commencement of development.

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

7. Prior to commencement of the development, the developer shall enter into an agreement with the planning authority, pursuant to Section 47 of the Planning and Development Act, 2000, which shall allow for provision of shared access onto the proposed access way onto Oulton Road. This shared access shall make provision for facilitating the possible future development of lands to the south, of the proposed development as indicated on the original planning application submission.

Reason: In the interest of co-ordinated development.

8. The materials, colours and textures of all the external finishes to the proposed houses shall be submitted to and agreed in writing with the planning authority before the commencement of development.

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

9. The developer shall enter into water and/or waste water connection agreements with Irish Water prior to the commencement of this development.

Reason: In the interest of public health.

10. Prior to the commencement of development, the developer shall submit details of drainage arrangements, including the attenuation and disposal of surface water, sustainable urban drainage systems in management of surface

water, and all other details in relation to compliance with OPW Guidelines and the Dublin City Development Plan 2016-2022 Strategic Flood Risk Assessment to the planning authority for agreement.

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

11. 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.

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

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

13. 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.

14. 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

15. 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, 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.

16. 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.

Máire Daly
Planning Inspector
29th April 2021