



An
Bord
Pleanála

Inspector's Report ABP-309993-21

Development

Construction of detached 3 bedroom dwelling, blocking up of existing vehicular entrance and creation of new entrance, parking spaces, construction of new boundary wall to replace existing wall and fence and all ancillary works.

Location

0.0245HA site to the rear of, 75, Beaumont Avenue, Churchtown, Dublin 14, D14E5Y0.

Planning Authority

Dun Laoghaire Rathdown County Council.

Planning Authority Reg. Ref.

D20A/0625.

Applicant(s)

Eoin Hinchy and Edna Gorham.

Type of Application

Permission.

Planning Authority Decision

Grant Permission with conditions.

Type of Appeal

Third Party.

Appellant(s)

Churchtown Residents Association and Co.

Observer(s)

Edel Gannon.

Date of Site Inspection

5 November 2021.

Inspector

Stephen Rhys Thomas

1.0 Site Location and Description

- 1.1. The appeal site is located along Weston Road near to the junction with Beaumont Avenue, in Churchtown, Dublin 14.
- 1.2. Beaumont Avenue and Weston Road are well established, mature residential areas comprising a mix of detached, semi-detached and terrace dwellings with good sized gardens, boundary walls/fences and mature trees and hedgerows. The character of the immediate area is sylvan, with mature street trees planted in wide grass margins on both sides of Weston Road along the site frontage. The site comprises the rear garden of number 75 Beaumont Avenue. This garden runs along Weston Road and abuts the front garden of a new infill house, 1A Weston Terrace. The site has an access to a rear laneway that runs to the north. The overall site and laneway are flat with no significant changes in level.

2.0 Proposed Development

- 2.1. Permission is sought
 - a) A part two-storey/part single storey detached 3- bedroom mews style dwelling with a floor area of 174.2 sq.m,
 - b) Block up existing vehicular entrance facing Weston Road and the creation of a new vehicular entrance containing,
 - c) Two pedestrian gates in the existing boundary to access the front and rear gardens of the proposed dwelling,
 - d) Off street parking for two vehicles,
 - e) Replace the existing boundary wall/fence and replace with a new wall formed from the external wall of the proposed dwelling at ground floor level, with two openings to courtyards, and
 - f) All landscaping, boundary treatments and ancillary works necessary to facilitate the development.
- 2.2. Further information was sought on the 27 October 2020 in relation to potential for overlooking, impact upon street trees, changes to access arrangements in the context of street trees and reduced width, and surface water drainage details,

documentation was submitted by the applicant on 25 February 2021 and included the following:

- The omission of an external staircase and glazed panels to the terrace at first floor level to limit the likelihood of overlooking,
- The submission of a tree survey and revised landscape drawings,
- Access arrangement altered, entrance reduced to 3 metres and one car parking space to be provided,
- Surface water drainage details submitted.

2.3. The revised details concerning the proposal were not re-advertised.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 26 conditions, most of a standard and technical nature, of relevance to this appeal are the following conditions:

1. Development to be in accordance with submitted plans and details as amended by Further Information received on 25/02/2021.
3. First floor terrace to be omitted, timber louvres to the kitchen retained, timber screen and west facing balustrade removed, west facing first floor wall extended southwards to entirely enclose the south facing first floor terrace, screened by a solid wall to the west.
4. First floor west elevation shall not be used as a terraces/balcony.
6. Vehicular entrance width to be no greater than 3.5 metres.
- 12-22. All relate to tree protection, monitoring and bond.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The basis of the planning authority decision includes:

Presentation of the County Development Plan standards with regards to existing housing stock and densification. Identification of the area of the site and that the proposed residential development is acceptable. After a request for additional information the design, scale, entrance details and street tree assessment of the residential development was acceptable. The report includes an AA screening assessment that concludes no requirement for AA. The recommendation was to grant permission subject to 26 conditions.

3.2.2. Other Technical Reports

Transportation Planning – after comment on further information, no objections subject to standard technical conditions.

Drainage Planning – initial report required a number of items of further information, subsequently, no objections subject to standard technical conditions.

Parks – initial report required a number of items of further information, subsequently, no objections subject to standard technical conditions and tree protection measures.

3.3. Prescribed Bodies

Irish Water – standard technical conditions.

3.4. Third Party Observations

Six submissions were received, the issues raised relate to all aspects of the proposal and a general presumption against the development in terms of: building line, design, overlooking, loss of street trees and vehicular access. Specifically, the occupiers of 1A Weston Road make a detailed observation. Similar issues have been brought up in the observation made on this appeal.

4.0 Planning History

Appeal Site

None.

Sites in the vicinity

Side garden houses have been granted and constructed in the general area, most notably D15A/0111 for a two-storey mews house at 41 Beaumont Avenue to the north.

5.0 Policy Context

5.1. Ministerial Guidelines

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

Section 5.9 relates to inner suburban / infill developments, promoting the provision of additional dwellings in such locations where it can assist in revitalising an area and utilise the capacity of social and physical infrastructure. For infill development (which includes backland areas) the Guidelines advise that 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.

5.2. National Planning Framework

National Policy Objective 6: 'Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.'

National Policy Objective 11: 'In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.'

5.3. Development Plan

Dun Laoghaire-Rathdown County Development Plan 2016-2022

The site is zoned under Land Use Objective 'A' with a stated objective 'to protect and/or improve residential amenity'.

Relevant Sections / Policies:

Chapter 2: Sustainable Communities Strategy:

Section 2.1: Residential Development:

Policy RES4: Existing Housing Stock and Densification: It is Council policy to improve and conserve the housing stock of the County, to densify existing built-up areas, having due regard to the amenities of existing established residential communities and to retain and improve residential amenities in established residential communities.

Chapter 8: Principles of Development:

Section 8.2.3: Residential Development:

Section 8.2.3.1: Quality Residential Design

Section 8.2.3.2: Quantitative Standards

Section 8.2.3.4: Additional Accommodation in Existing Built-up Areas:

(v) Corner/Side Garden Sites: Corner site development refers to sub-division of an existing house curtilage and/or an appropriately zoned brownfield site to provide an additional dwelling in existing built up areas. In these cases the Planning Authority will have regard to the following parameters (Refer also to Section 8.2.3.4(vii)):

- Size, design, layout, relationship with existing dwelling and immediately adjacent properties.
- Impact on the amenities of neighbouring residents.
- Accommodation standards for occupiers.
- Development Plan standards for existing and proposed dwellings.
- Building lines followed where appropriate.
- Car parking for existing and proposed dwellings.
- Side/gable and rear access/maintenance space.
- Private open space for existing and proposed dwellings
- Level of visual harmony, including external finishes and colours.

- Larger corner sites may allow more variation in design, but more compact detached proposals should more closely relate to adjacent dwellings. A modern design response may, however, be deemed more appropriate in certain areas in order to avoid a pastiche development.
- Side gable walls as side boundaries facing corners in estate roads are not considered acceptable. Appropriate boundary treatments should be provided both around the site and between the existing and proposed dwellings. Existing boundary treatments should be retained where possible.
- Use of first floor/apex windows on gables close to boundaries overlooking roads and open spaces for visual amenity and passive surveillance.

It is also recognised that these sites may offer the potential for the development of elderly persons accommodation of more than one unit. This would allow the elderly to remain in their community in secure and safe accommodation. At the discretion of the Planning Authority there may be some relaxation in private open space and car parking standards for this type of proposal.

(vi) Backland Development:

Backland residential development usually involves the establishment of a new single dwelling, and a building line to the rear of an existing line of houses. Residential development within the boundary of larger detached houses does not constitute backland development and will not be assessed as such. Where the Planning Authority accepts the general principle of backland residential development to the rear of smaller, more confined sites within the existing built-up area, the following standards will apply:

- Generally be single storey in height to avoid overlooking.
- Adequate vehicular access of a lane width of 3.7m must be provided to the proposed dwelling (3.1m at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.
- A wider entrance may be required to a backland development to or from a narrow laneway.

- Existing dwelling and proposed dwellings shall have minimum individual private open spaces of 48 sq.m. each - exclusive of parking - for one/two bedroom units or 60 sq.m. plus for three/four or more bedroom units.
- Proposed single storey backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- Proposed two storey backland dwellings shall be located not less than 22 metres from the rear façade of the existing dwelling where windows of habitable first floor rooms directly face each other. Proposed two-storey backland dwellings should have a minimum rear garden depth for the proposed dwelling of 11 metres.

Where there is potential to provide backland development at more than one site/property in a particular area, the Planning Authority will seek to encourage the amalgamation of adjoining sites/properties in order to provide for a more comprehensive backland development. Piecemeal backland development with multiple vehicular access points will not be encouraged.

(vii) Infill:

New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/gateways, trees, landscaping, and fencing or railings.

This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th Century suburban 'Garden City' planned settings and estates that do not otherwise benefit from Architectural Conservation Area status or similar. (Refer also to Section 8.2.3.4 (v) corner/side garden sites for development parameters, Policy AR5, Section 6.1.3.5 and Policy AR8, Section 6.1.3.8).

Section 8.2.3.5: Residential Development – General Requirements

Section 8.2.4.9: Vehicular Entrances and Hardstanding Areas

Section 8.2.8.4: Private Open Space – Quantity

5.4. Natural Heritage Designations

5.4.1. None relevant to this suburban site. However, the following natural heritage designations are in the general vicinity of the proposed development site:

- The Fitzsimon's Wood Proposed Natural Heritage Area (Site Code: 001753), approximately 2.8km south of the site.
- The Booterstown Marsh Proposed Natural Heritage Area (Site Code: 001205), approximately 3.3km northeast of the site.
- The South Dublin Bay and River Tolka Estuary Special Protection Area (Site Code: 004024), approximately 3.3km northeast of the site.
- The South Dublin Bay Proposed Natural Heritage Area (Site Code: 000210), approximately 3.5km northeast of the site.
- The South Dublin Bay Special Area of Conservation (Site Code: 000210), approximately 3.5km northeast of the site.

6.0 Screening for Environmental Impact Assessment

6.1. The subject development is for a single house, on a site of 0.0245ha, falling well below both of the applicable thresholds for mandatory EIA, as set out at Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended).

6.2. In respect of sub-threshold EIA, having regard to the limited nature and scale of the proposed development, which comprises the construction a single house on serviced land, it is considered that 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.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. The grounds of the third party appeal to can be summarised as follows:

- The removal of four street trees not appropriate, the tree survey submitted by the applicant is not acceptable and a tree survey submitted under this appeal reaches different conclusions. The removal of the trees would mean the loss of an important and valuable natural character for the area and diminish visual amenity and devalue property. The removal of so many trees only benefits the applicant and the house design they have proposed.
- The ownership of the grass verge to the front of the site has not been proven. It is not clear if and how new rights of way across the verge can be granted. The legal basis for granting permission is queried.
- All aspects of the proposed house are criticised. The proposed house is oversized, has an overbearing impact, causes overshadowing, is out of style, out of character and at odds with the existing building line. The scale of the house means it cannot be described as a mews, it is too large, thus at odds with the County Development Plan objectives in relation to infill or mews sites. The position of the house to back of the footpath will mean it will be overbearing as viewed from the street, from number 1A to the east and from the rear of dwellings along Beaumont Avenue.
- The style of the proposed house is out of character with existing single and two storey traditional house forms in the area.
- The proposed house will infringe on the existing building line, it does not line up with houses to the east along Weston Road.
- Nearby properties will experience a loss of light, especially number 1A Weston Road and 74 Beaumont Avenue will experience overshadowing.

7.1.2. The grounds of appeal are accompanied by an Arboricultural Report and 3D visualisation drawings.

7.2. **Planning Authority Response**

No further comments in relation to the grounds of appeal, no issues raised to change the planning authority's attitude to the proposed development.

7.3. **Applicant Response**

The applicant has prepared a detailed response to the grounds of the third-party appeal and can be summarised as follows:

- The robustness of their own tree survey is emphasised and the applicant stands over its findings.
- The ownership of the grass verge can still not be ascertained but efforts continue and the applicant will comply with any conditions applied by the Council.
- The scale and design of the proposed dwelling is defended, it compares well with current standards and guidelines and will provide a good level of accommodation for occupants. Whether a mews or backland development, doesn't really matter, the design still stands up to scrutiny. The design will not result in impacts of overbearing, overshadowing or overlooking. Building lines have been broken in many nearby locations.
- There will be no oversailing of adjacent property and no access required for maintenance.
- A new Arboricultural Report was submitted to respond to those criticisms set out in the third party appellant's grounds of appeal; the findings of the applicant's original report stand.

7.4. Third Party Appellant Response

The submission argues that some form of residential development could happen at this site, as it stands the building line will be adversely impacted upon and there are still issues with the tree survey in which the opinion of the applicant's specialist and DLRCC Parks Dept differ.

7.5. Observations

- 7.5.1. An observation has been received from an address at 46 Beaumont Avenue, that reiterates concerns and issues already outlined when the application was made to the planning authority in their original submission, but can be summarised as follows:
- The proposed development will block off any chance of creating a through route from the north to Weston Road and thus limit the possibility of a coordinated development of all back gardens. In addition, and in terms of

safety such a one-way through route would assist traffic movements along the laneway that are at present awkward and at times dangerous. The laneway is owned by the Council and ceding land at the southern end and connect to Weston Road would be advantageous.

- The proposed traffic movements in and out of the driveway will be dangerous as a vehicle will have to either reverse in or reverse out onto Weston Road.
- The amount of private amenity space devoted to the proposed dwelling is not enough and has been further reduced by the Council.

8.0 **Assessment**

8.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Principle of Development
- Design
- Street Trees
- Residential Amenity
- Development Potential
- Other Matters

8.2. **Principle of Development**

- 8.2.1. Zoning - Under the provisions of the Dún Laoghaire-Rathdown County Council County Development Plan 2016 – 2022 the appeal site is wholly contained within an area zoned Objective A where the objective is to protect and / or improve residential amenity and where residential development is permitted in principle. Accordingly, the principle of developing a dwelling is acceptable in principle subject to the acceptance or otherwise of site specifics / other policies within the development plan and national planning guidance.
- 8.2.2. The appellant and observers have raised the question of what specific policy or objective of the development plan should be applied to this site, either backland, infill or mews development. I note that the planning authority have not sought to interpret their own development plan any differently to the applicant and are satisfied that the principle of residential development in any reasonable form can occur on this site. To that end elements of the development were tweaked by further information and additionally by conditions that further refined the overall design to suit the site. The applicant has not challenged these planning conditions. To reiterate, I am entirely satisfied that the principle of residential development at this location is acceptable, the detail of which is examined in the following sections of this report.

8.3. **Design**

- 8.3.1. The appellant is extremely dissatisfied with nearly all aspects of the proposed development, but the contemporary design approach is particularly disliked as, in the opinion of the appellant, runs counter to the existing architectural character of the area. The applicant rejects the criticism levelled by the appellant and defends the design approach to the site and changes nothing. The planning authority are not concerned with the contemporary design employed by the applicant and have granted permission subject to conditions.
- 8.3.2. I acknowledge the appellant's point of view when it comes to the subjective issue of design. I note the existing suburban character of the area, defined by 1950s and 1960s semidetached housing, part of Weston Road/Park and Beaumont Drive. I also note the notable domestic quality of houses fronting onto Beaumont Avenue from the early 19th / 20th century. In addition, I note that numerous side gardens have been developed for housing and that the design of these houses has been to safely copy what is already there, pitched roof two storey dwellings. However, the subject site is unlike any other in the immediate vicinity, it is long and narrow and fronts onto an attractive tree lined street. It is in that context that the applicant has chosen to produce a house design that attempts to address the street side context, trees and narrow site. This they have done reasonably successfully by breaking the building line. The profusion of timber panels at first floor level is a nod to the sylvan character of the immediate surroundings and will become an attractive design focus in the winter months when the sun is low and trees stripped of their leaves. I am entirely satisfied that the contemporary design approach used by the applicant responds well to the site and I anticipate that the timber elements at first floor will make a positive contribution to the urban neighbourhood and streetscape.

8.4. Street Trees

- 8.4.1. The site is located along Weston Road, at a location that is characterised by street trees and wide grass verges. This character is different to other locations along Beaumont Avenue to the west but is consistent with the rest of Weston Road where wide grass verges are planted with trees and lead on to a very pleasant and sylvan park nearby at Weston Park. The appellant has very strong ideas about the loss of so many street trees to the front of the development site and has produced their own tree survey that questions the reliability of the applicant's initial tree survey. The applicant has responded to the appellant's tree survey with an updated survey that

simply repudiates the appellant's claims and reiterates the findings of their first survey. In my view it is not necessary to dissect each tree survey in order to find flaws or merits. Suffice to say that if development were to happen on this site, it would be inevitable that some street trees would have to be removed and that those that remain should be protected and/or supplemented.

- 8.4.2. I note that the planning authority had initial concerns about the loss of street trees and required greater clarity by way of further information to determine if the design approach employed by the applicant was sufficient to retain as many trees as possible. It is evident that after the receipt of the information submitted by the applicant the planning authority were satisfied and granted permission subject to 11 conditions specifically related to tree protection, monitoring and replacement as necessary. It seems to me that the planning authority are equally as serious about retaining trees, where possible, as the appellant.
- 8.4.3. According to the drawings submitted by the applicant, I can see that four trees are to be removed and a replacement tree is to be planted. Three large trees in the grass verge to the back of the property boundary will be removed. A further tree in the grass margin to the back of the road will also be removed to accommodate the driveway. There will still be street trees in the grass margin between the footpath and the road and this is not out of character with the rest of Weston Road. Though the loss of three very large Silver Maple trees will be noticeable, I am satisfied that suitable replacement trees could also be planted in their place and this can be managed by agreement the planning authority. The attachment of a condition in this respect may not be enforceable as the grass margin to the south of the site falls outside the applicant's ownership. However, I am satisfied that this is not a significant matter and the landscaping of this section of the street may well fall within the remit of the planning authority.
- 8.4.4. In relation to the sylvan character of the streetscape to the front of the site, I note that the applicant states that their house design approach will provide even greater passive surveillance opportunities. A state of affairs that the appellant sees as unnecessary. The applicant states that the area can sometimes collect litter and it has been their pleasure to periodically collect and dispose of such material. It is fair to say that the proposed house will provide additional surveillance of the street and this is welcomed. I would also suggest that the appearance and maintenance of this

area may well fall to the new owners, and this will be a fortuitous consequence of the development.

8.5. Residential Amenity

8.5.1. The proposed development is for a dwelling house and the applicant has designed residential accommodation that accords with best practice. There are no section 28 guidelines issued by the minister with regard to the minimum standards in the design and provision of floor space with regard to conventional dwelling houses. However, best practice guidelines have been produced by the Department of the Environment, entitled Quality Housing for Sustainable Communities. Table 5.1 of the best practice guidelines sets out the target space provision for family dwellings. In every respect, the applicant has provided internal living accommodation that exceeds the best practice guidelines. I am satisfied that an adequate level of living accommodation has been provided. The appellant and an observer, note that private amenity space (garden) is poor and will be further limited by the conditions imposed by the planning authority that remove first floor terrace areas.

8.5.2. The proposed development provides for approximately 63 sqm, more than that required by the County Development Plan. I acknowledge that the proposed garden space will not be provided behind the rear building line as demanded by the development plan for conventional houses. However, given the circumstances of the site, whether it be mews or infill development, I am satisfied that in order to enliven the street at this location it would be appropriate that a side garden set behind a tall boundary wall as proposed is acceptable. In order to retain this private amenity space, a suitable condition could be attached to limit exempted development rights such as they apply to this site. I note that first floor terrace areas that open off the kitchen and living room have been provided and I see these as additional and beneficial private amenity spaces. On the whole I am satisfied that residential amenity that will be afforded to the future occupants of the dwelling is acceptable.

Residential amenity – adjacent residents

8.5.3. The initial development proposed by the applicant was required to address concerns from the planning authority about overlooking. These concerns were satisfactorily addressed by the applicant, however, the planning authority sought further refinements by way of condition to ensure that the residential amenities of

neighbouring property were not duly impacted upon. These refinements are articulated by condition 2 and 3 of the planning authority's order. In brief, the planning authority sought to restrict all possibility of views from the first floor western elevation back towards property along Beaumont Avenue. The applicant has not challenged these conditions.

8.5.4. The appellant is not satisfied that the planning authority have gone far enough to dispel any chance of overlooking and loss of privacy to adjacent property and further criticism is levelled at the scale and massing of design that would restrict daylight to 1A Weston Road and overshadowing of 74 Beaumont Avenue. Firstly, I can see that the planning authority have removed all possibility of a westerly aspect from the proposal, by seeking the erection of a solid wall and restricting the use of the terrace/balcony. This approach will without doubt remove any possibility of overlooking, however, I consider it heavy handed and could result in a somewhat overbearing blank wall as viewed from the rear gardens of Beaumont Avenue. The applicant has proposed a secondary timber screen to prevent overlooking and this has been selected to lighten the architectural appearance of the upper levels. I consider that a timber screen is preferable and limitations to a direct outlook could be achieved by either hit and miss timber panels or preferably angled timber panels as indicated outside the kitchen's western window. The planning authority also sought to restrict the use of this western terrace, however, given that the drawings indicate planting at this location and the minimal width I see no advantage in restricting its use. I am satisfied that a reworded condition to this affect should be considered and will achieve the same outcome as the planning authority's condition 2. Furthermore, I see no great advantage of limiting the use of this wraparound terrace when most of the floor area is taken up with planting, condition 3 is not necessary.

8.5.5. Secondly and in relation to daylight penetration and overshadowing. The applicant prepared a detailing planning and design report to accompany their proposal in which matters raised at the pre-planning stage were addressed, such as separation distances, residential and visual amenity. As a result, the applicant prepared an overshadowing study, drawing PL-107 refers. Taking the spring/autumn equinox at 12pm, I can see that additional areas of shadow will fall on the rear garden of number 74 Beaumont Avenue, this is not entirely unexpected. However, at no point does shadow either fall on habitable rooms either at number 74 or number 1A

Weston Road. I am satisfied that the proposed development will not cause undue levels of overshadowing to affect the habitable rooms of adjacent property. Daylight has been raised by the appellant as an issue that might affect number 1A Weston Road and the use of a '45 degree rule' is suggested, this it is claimed by the appellant would reveal that number 1A would lose light. There are non-statutory British design standards that refer to new development and access to sunlight and daylight. It is common in medium to large scale housing development that a specific sunlight/daylight and overshadowing analysis is prepared, especially when tall buildings are proposed or where orientation and separation distances are a concern. In this instance the front elevation of number 1A Weston Road is up to 11 metres due north east of the proposed dwelling. In addition, there are no obstructions due south of number 1A and so direct south light and sunlight hits the front face of a downstairs hall and upstairs bedroom and attic room. The gable elevation to the rear laneway of 1A also has glass block windows at ground floor level to light the front hall and rear living room and a first floor window to light the bathroom. Number 1A is a dual aspect property with ground floor habitable rooms to the rear. The proposed development would not impact upon the existing levels of daylight and sunlight penetration to number 1A such as they currently exist. I am satisfied that the residential amenities of number 1A as they relate to sunlight/daylight and overshadowing will not be affected by the proposed development.

- 8.5.6. In summary, I am satisfied that the residential amenities of the proposed development are acceptable and that no adjacent property will be unduly impacted upon by the development as proposed and amended by further information received by the planning authority and amended by conditions that I have recommended.

8.6. Development Potential

- 8.6.1. An observer has raised the issue of the future residential development potential of the rear laneway; that could connect Weston Road with Beaumont Drive/Avenue and solve current traffic issues along the lane. The theory is advanced that the proposed development is premature until a masterplan for the area is devised, and that development potential should not be extinguished by the current proposal. Whilst I agree that a coordinated approach to the development of each and every rear garden between 42 and 75 Beaumont Avenue is desirable it may not be achievable in the short term or even at all. I note that the rear garden of number 41 Beaumont

Avenue has already been developed and that a car repair business currently operates along the laneway. I accept that the redevelopment of all of these rear gardens could provide a logical 'mews' type style of living, but it would take more than the postponement of the current proposal to achieve. In any case, the applicant has proposed a vehicular entrance and parking space to the side of their proposed dwelling that could in time provide a logical extension of the laneway subject to future planning consent. I do not accept that the proposed dwelling eliminates any future masterplan exercise and permission should not be refused on that basis.

8.7. Other Matters

- 8.7.1. Property Values – The appellant has not submitted any analysis to show how the proposed development would reduce the property values in the vicinity. In the absence of any evidence to determine without doubt that the proposal would decrease property values in the area and given that the proposed development is acceptable from a design and residential amenity perspective, there is no reason to refuse permission on such a basis.
- 8.7.2. Ownership - The appellant has raised an issue over the ownership of the grass margin to the front of the site and what right the applicant has to cross over and develop the land. Issues to do with ownership are legal matters and access to sites is a for agreement between the relevant parties.
- 8.7.3. Boundaries - I acknowledge the concerns of third parties as regards any potential interference with property rights or shared boundaries, it is not the function of the Board to adjudicate on property disputes, these are civil matters for resolution between the parties concerned. Accordingly, I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that 'A person shall not be entitled solely by reason of a permission under this section to carry out any development' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property.
- 8.7.4. Traffic – Other than an observation from a third party to do with access/egress and a masterplan for the area, primarily to do with creating a link from Weston Road to the rear laneway, no other issues have been raised in relation to traffic. I note that that the planning authority are satisfied with the access and egress arrangements, no further action is warranted.

8.8. Appropriate Assessment.

- 8.8.1. Having regard to the minor nature and scale of the development under consideration, the site location within an existing built-up area outside of any protected site, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

9.0 Recommendation

- 9.1.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out below:

10.0 Decision

- 10.1. Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

11.0 Reasons and Considerations

Having regard to the nature, extent and design of the development proposed, to the general character and pattern of development in the area and to the provisions of the Dun Laoghaire Rathdown County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of property in the vicinity and would not be out of character with the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 25th day of February 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. a) The secondary timber screen to prevent overlooking located at first floor level on the western elevation shall extend the entire width of the western elevation and comprise similarly angled screening as that proposed to the kitchen's western window, that is to be at an angle of 45 degrees in order to allow south westerly views only.

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: To maintain residential amenity and prevent overlooking of adjoining residential property.

3. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the proposed dwelling house without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwelling.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. All street trees on and near the boundaries of the site shall be retained and maintained, with the exception of the following:

(a) Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.

(b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Retained trees shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

Reason: In the interest of visual amenity.

6. (a) Prior to commencement of development, all street trees which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or

other substances, and no lighting of fires, over the root spread of any tree to be retained.

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

7. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of [three] years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

8. Drainage arrangements including the attenuation of surface water shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of public health.

9. Prior to commencement of development, the developer shall enter into a water and/or wastewater connection agreement with Irish Water.

Reason: In the interest of public health.

10. Site development and building works shall be carried out between the hours of 0700 to 1800 hours Mondays to Friday inclusive, and between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviations 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.

11. Any damage to the public road or footpath during the course of the construction works shall be repaired at the developer's expense. Details of the nature and extent of repairs shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

12. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interests of visual and residential amenity.

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 noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning

authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Stephen Rhys Thomas
Senior Planning Inspector

8 November 2021