



An  
Bord  
Pleanála

## Inspector's Report ABP-310443-21

### Development

Planning permission is sought for the demolition of an existing single storey extension and roof to the rear of the property and the construction of a two-storey extension comprising a bathroom and bedrooms at first floor level. As part of the proposed works some internal alterations to the existing house are proposed as well as all associated works and services.

### Location

No. 5 Garden Terrace, Clanbrassil Street Upper, Dublin 8.

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

WEB1286/21.

### Applicant

Bill Ahessy.

### Type of Application

Planning Permission.

### Planning Authority Decision

Grant with Conditions.

### Type of Appeal

Third Party-Vs-Grant.

**Appellant(s)**

Daniel Martin.

**Observer(s)**

Maria Perez.

**Date of Site Inspection**

29<sup>th</sup> day of July, 2021.

**Inspector**

Patricia-Marie Young.

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## 1.0 Site Location and Description

- 1.1. No. 5 Garden Terrace, Clanbrassil Street Upper, the appeal site has a stated 86m<sup>2</sup> site area and contains a much modified single storey terrace dwelling with a modest gross floor area of 52m<sup>2</sup>. This dwelling is setback from the shared pedestrian pathway by a modest front garden area. This is the only outdoor amenity space that benefits the occupants of the subject dwelling. The southern side of the pedestrian pathway is comprised of a tall solid wall that provides privacy and a sense of enclosure for the properties at Garden Terrace. The cul-de-sac has a mature residential character, and it is located in the Dublin city suburb of Portobello, c3km to the south west of Dublin's city centre.
- 1.2. The site is accessed from a pedestrian gate that opens onto a shared pedestrian pathway that accommodates the cul-de-sac terrace group of dwellings that Terrace Gardens is mostly comprised of.
- 1.3. This shared pathway connects to the heavily trafficked Clanbrassil Street Upper (R137) c24m to the west of the southwestern most corner of the site. At this point Clanbrassil Street Upper contains a mixture of land uses with a coffee shop and an antique shop located at the northern and southern roadside of the aforementioned of the pedestrian pathway's junction with Clanbrassil Street Upper.
- 1.4. The pedestrian access serving Garden Terrace is situated c90m to the north of a bridge over the Grand Canal which links Clanbrassil Street Upper to Parnell Road, Grove Road and Harold's Cross Road. It is also located c180m to the south of Clanbrassil Street Uppers junction with the South Circular Road (R811).

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the demolition of an existing single storey extension and roof to the rear of the property and the construction of a two-storey extension comprising a bathroom and bedrooms at first floor level. As part of the proposed works some internal alterations to the existing dwelling are proposed as well as all associated works and services. This proposal would increase the gross floor area of the subject dwelling from its given 52m<sup>2</sup> to 84m<sup>2</sup>.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 12<sup>th</sup> day of May, 2021, the Planning Authority decided to **grant** planning permission subject to 7 no. mainly standard conditions. Of relevance to the grounds of this appeal are the requirements of Condition No. 2. This condition requires the glazing of the first-floor rear window to be opaque or frosted glass and for it to be permanently maintained as such in the interests of protecting residential amenities of neighbouring properties.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planning Officer's report is the basis of the Planning Authority's decision. It includes the following comments:

- The design and layout of the proposed development is deemed acceptable.
- Issues in relation to overlooking can be addressed by way of condition.
- Appropriate Assessment is not required.
- Concludes with a recommendation to grant planning permission.

### 3.3. Other Technical Reports

- 3.3.1. **Drainage:** No objection subject to safeguards.

### 3.4. Prescribed Bodies

- 3.4.1. None.

### 3.5. Third Party Observations

- 3.5.1. Four no. third party observations were submitted from residents of properties in the immediate vicinity of the site. The issues raised may be summarised as follows:

- The proposed development, if permitted, would diminish residential amenities by way of overlooking.

- The proposed development has the potential, if permitted, to have a negative impact on the character of these cottages and also their structural stability.
- The proposed development is higher than the adjoining dwellings and would have a significant negative effect on the levels of daylight and sunlight entering adjoining properties as well as would give rise to increased levels of overshadowing.
- Trespass arising from maintenance and other works to the rear of Garden Terrace properties in the past has resulted in damage to the appellants property.
- Compliance with previous grant of planning permission for works on this property are raised.
- Concerns are raised in relation to the accuracy of the submitted drawings.
- Concerns are raised in relation to the diminishment of amenity during the construction phase.
- This development would considerably devalue property values.
- The increase in size of the ground floor windows is objected too.
- It is requested that any mechanical ventilation to serve the proposed wet room be extracted through roof level.
- No details have been provided as to how the applicant proposes to access the rear of the site to carry out the works proposed.
- Concern is raised in relation to overhanging and oversailing of water goods.
- There is requirement for such developments to have car parking.

## 4.0 Planning History

### 4.1. Site

- **P.A. Ref. No. 3895/16:** Planning permission was **granted** subject to conditions for a development described as the construction of a bay window and provision of a roof light to the east side of the main roof.

### 4.2. Setting

- 4.2.1. No relevant Board precedent in the immediate and surrounding setting.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The Dublin City Development Plan, 2016 to 2022 is applicable. Under this plan the site is located in an area that is zoned Objective Z1 which has a stated land use objective: “*to protect, provide and improve residential amenities*”. In such areas residential development is a permissible use.

5.1.2. Relevant sections of the Development Plan include:

- Paragraph 16.10.12 of the Plan which relates to extensions to residential properties. This indicates that permission to extend dwellings will only be granted where the planning authority is satisfied that the proposal will:
  - Not have an adverse impact on the scale and character of the dwelling.
  - Have no unacceptable effect on the amenities enjoyed by the occupants of adjacent buildings in terms of privacy and access to daylight and sunlight.
  - Achieve a high quality of design.
- Appendix 17 of the Plan provides guidance on residential extensions.

### 5.2. Natural Heritage Designations

5.2.1. The site is located c4.1km to the west of both the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC.

#### 5.2.2. Environmental Impact Assessment – Screening

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

## 6.0 Grounds of Appeal

6.1.1. The Third-Party grounds of appeal may be summarised as follows:

- Exempted development through to concerns in relation to previous development works to the subject property are raised.
- The enlarged ground floor and the first-floor level rear windows would result in more significant adverse impacts on their residential amenity.
- Escape in the event of fire would be reliant upon access into the appellants property without their permission.
- The proposed extension is not subordinate in its design or scale.
- No consent to access the subject property from the appellants property has been given or will be given.
- This proposal would give rise to a 62% increase in floor area on what is a restricted site. It is considered that the scale of development is unacceptable in this context.
- It is not accepted that the Planning Authority has had adequate regard to the appellants concerns in their determination of this application.

## 6.2. Applicant Response

6.2.1. The applicant's response may be summarised as follows:

- The current 2 windows at the rear of the property replaced single glazed windows that were put in prior to the 13<sup>th</sup> day of December, 1989. These works were carried out in a compliant manner and are not relevant to the proposed development now sought.
- Both the existing and proposed windows to the rear elevation will not result in any overlooking.
- The existing windows allow natural daylight into the rear of the dwelling where the bedroom is located and are above eye level.
- The plots at Garden Terrace are unusual as the main amenity space is to the front. In the case of the site their front garden amenity space is 20m<sup>2</sup> and cannot be used as a car parking space as vehicular access is not possible. Section 16.10.2 of the Development Plan requires a standard of 5 to 8m<sup>2</sup> of private open space per bedspace for houses within the inner city. This proposal meets this requirement.



- The enforcement case regarding the two rear windows has been closed as of the 25<sup>th</sup> day of June 2021.
- The proposed amended rear ground floor level window in the new kitchen area is above eye level with only visible sky.
- A first-floor window was approved by the Planning Authority subject to it being fitted with opaque glass. There is no objection to meeting this requirement.
- Egress from the first-floor window in a fire event would be the last resort as there are two other options available to the occupants.
- A comprehensive light and shadow analysis was submitted with this application which shows that the proposed development would have very little impact on the amount of light entering the appellants property between the existing and proposed context.
- Precedent for this type of development has been established at No.s 3 and 4 Garden Terrace where two storey rear extensions were approved.
- Refurbishing buildings like this is consistent with Dublin City's Development Plan Core strategy that seeks to promote a compact city, sustainable neighbourhoods, and areas where a wide range of families can live.
- This proposal relates to a small house in the inner city and seeks to allow it to be renovated as well as extended to provide for additional accommodation.
- The proposed development does not represent overdevelopment of the site.
- This development will safeguard the future of this inner-city dwelling.

### 6.3. **Planning Authority Response**

6.3.1. None received.

### 6.4. **Observations**

6.4.1. The Observer's comments can be summarised as follows:

- The proposed development is out of character with its site context.

- The proposed development has the potential to give rise to structural damage of adjoining properties.
- The rear elevation drawings submitted do not correctly reflect their site context.
- If permitted the proposed development would diminish residential amenities of adjoining properties by way of overshadowing, overlooking, loss of daylight and sunlight.
- This development would result in devaluation of their property.
- The Planning Authority's condition requiring opaque glazing does not address the fact that the window could be opened. In this context overlooking would arise on the observer's property.
- Anti-social behaviour issues are raised in relation to the past use of the property by the applicant.
- This development would set an undesirable precedent for other similar developments.

## 7.0 **Assessment**

### 7.1. **Introduction**

7.1.1. The main issues in this appeal case are those raised in the grounds of appeal and the observer's submission to the Board. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Principle of the Proposed Development
- Residential Amenity Impact
- Visual Amenity Impact
- Other Matters Arising

7.1.2. The matter of 'Appropriate Assessment' also requires examination.

7.1.3. I also note to the Board that the application is accompanied by a Shadow Casting Analysis for the Spring Equinox, the Autumn Equinox, the Winter Solstice, and the Summer Solstice which I have had regard to as part of my consideration of this appeal case.

## 7.2. Principle of the Proposed Development

- 7.2.1. The appeal site is located on a parcel of inner-city land zoned 'Z1' under the Dublin City Development Plan, 2016 to 2022. The stated objective for such land is "*to protect, provide and improve residential amenities*". The proposed development consists of a proposed extension to an existing dwelling. A type of development that is deemed to be generally acceptable on lands zoned 'Z1'. In addition, the given dwelling house has a stated gross floor area of 52m<sup>2</sup> and the proposed extension, if permitted, would give rise to total floor area of 84m<sup>2</sup>. In either the dwellings existing and/or proposed situation I consider this to be a modest floor area for a dwelling house and the proposed development in essence gives rise to one additional bedroom.
- 7.2.2. I further note that the planning application form indicates that the proposed development would give rise to a plot ratio of 0.97 and a site coverage of 60%. On 'Z1' zoned lands the Development Plan advocates a site coverage of 45%-60% and a plot ratio of 0.5-2.0 as indicative standards for such sites. As such the proposed development is within the plot ratio and site coverage parameters on 'Z1' zoned land. Further the 60% site coverage is unchanged between the existing and the proposed development sought under this application with the extension primarily relating to the addition of a first-floor level. As such there is no reduction in private amenity space serving this dwelling which at 20m<sup>2</sup> is of a size that meets the Development Plan standards.
- 7.2.3. Historically the dwelling forms part of a terrace group whose access to the public domain is via a pedestrian lane with no vehicle access and no off-street car parking serving any of the terrace group the subject property forms part of. There is no increase in dwelling units proposed and as such it would be unreasonable in my view for such a development to be required to provide off-street car parking where none has historically existed to serve what is a modest single dwelling unit within an inner-city area well served by public transport and with good connectivity as well as permeability by foot and by bicycle. It is also well served by a variety of services and amenities that would be beneficial for residential occupants to live beside.
- 7.2.4. Based on the above considerations, I consider that the principle of residential development is generally deemed to be acceptable on such lands, subject to safeguards.

### 7.3. Residential Amenity Impact

- 7.3.1. Both the appellant and the observer in this appeal case raise concerns that the proposed development, if permitted, would give rise to adverse diminishment on their residential amenities.
- 7.3.2. The applicant in their response refers to the Planning Authority's Planning Officer's report and contends that no significant adverse impacts would arise on adjoining and neighbouring properties in its vicinity.
- 7.3.3. Alongside they note no objection to providing permanently an opaque window at first floor level of the rear elevation of the proposed extension and they indicate in relation to the amended ground floor window that it is positioned at a height that is above eye level with the only views available from it being the same as its existing context which is views of the sky, glimpses of upper floor and roof structures of properties to the north west and south east as well as tops of mature trees.
- 7.3.4. Further, the shadow analysis that forms part of the submitted documentation with this application show that no significant additional overshadowing would arise on properties in the vicinity of the proposed development.
- 7.3.5. The assessment criteria for residential extensions like that proposed under this application are set out in Chapter 16 of the Development Plan, with Section 16.10.12 specifically dealing with the matter of extensions to existing dwellings and Appendix 17 providing additional guidelines for residential extensions.
- 7.3.6. The Development Plan acknowledges the need for people to extend and renovate their dwellings.
- 7.3.7. In general, it indicates that the principle of extensions to existing dwellings will be considered favourably where they do not have a negative impact on adjoining properties or on the nature of the surrounding area.
- 7.3.8. I also note that the Development Plan also encourages sensitively designed extensions and are open to contemporary design solutions.
- 7.3.9. One of the main safeguards that the Development Plan sets out is that applicants should demonstrate that such developments in particular do not negatively impact on adjoining properties or on neighbouring areas.

- 7.3.10. Both the appellants and the observer in this appeal case note the proximity of the proposed development to their properties with both raising concerns that the proposed development would give rise to significant additional overlooking which would diminish their residential amenity and further add to their existing sense of perception of being overlooked from the number of properties that adjoin their properties.
- 7.3.11. I note that in the case of No. 44 Clanbrassil Street Upper it would appear that its rear amenity space appears to share its southern boundary with No.s 43 Clanbrassil Street Upper, No.s 1 to 8 Garden Terrace. It is also shares boundaries on its eastern and northern sides with other residential properties.
- 7.3.12. This makes this particular property vulnerable to change considering that all properties with the exception of No. 8 Garden Terrace have structures that extend onto the boundary of this property. With a number of these properties containing windows on the rear boundary and two storey built structures.
- 7.3.13. The subject property contains two existing high-level windows serving the rear bedroom. Having inspected this rear room and these windows they are as contended by the applicant at such a height that they only provide sky views with no direct views onto the appellants or also the observers properties private amenity spaces. Any glimpses of structures are oblique in their angle. The proposed amended window at ground floor level which essentially seeks to glaze the void in between these two existing windows to create one longer rectangular window would not greatly alter this situation should the proposed development be permitted. Further the interior layout of the kitchen is such that all three side walls of that room would be fitted with units making it difficult to access this amended window. Notwithstanding, the fact that the existing windows and proposed window at this level being of transparent glazing I accept would give the perception of being overlooked. Particularly from the rear amenity space of the appellants property.
- 7.3.14. This concern could be addressed by the Board should it be minded to grant permission by way of seeking this window to be fitted permanently with opaque glazing. This I consider would not be unreasonable given that the proposed ground floor window would be of an increased dimensions alongside what appears to be a ground level difference between the subject site and the appellants property private amenity space.

- 7.3.15. In relation to the proposed first floor level rear window this proposed window, this proposed window is of modest c1m height and c0.75m width and serves a bedroom/study.
- 7.3.16. The applicants as part of their response indicate that they do not object to this window being fitted with opaque glazing permanently and the alignment of the rear boundary at this point which the design of the first-floor extension follows inclines inwards in a westerly direction with this window being located towards the western most end of the first-floor level rear elevation.
- 7.3.17. Subject to this window being fitted permanently with opaque glazing I do not consider that this window would give rise to any significant increase in overlooking arising from the subject property on properties in its vicinity, including the appellant and the observers' properties.
- 7.3.18. Another concern raised is that the proposed development, if permitted, would give rise to a diminishment of residential amenities by way of overshadowing and a reduction in daylight.
- 7.3.19. As previously set out this application is accompanied by a Shadow Analysis which shows that the proposed development if permitted would give rise to modest increased levels of overshadowing of the property to the immediate north during the Spring Equinox over and above the existing context at 09:00; 12:00 and 15:00 hours; during the Summer Solstice modest overshadowing is shown at 12:00 and 15:00 hours; and, during the Autumn Equinox at 15:00 hours. This analysis shows the overshadowing that would arise on adjoining and neighbouring buildings as well as spaces in its vicinity.
- 7.3.20. This analysis is not accompanied by any detailed analysis of the existing and proposed vertical sky component values and existing as well as proposed annual probable sunlight hours for the habitable rooms of properties that would be impacted by what is shown to be a modest increase in overshadowing, particular in terms of No. 44 Clanbrassil Street Upper.
- 7.3.21. It is evident that the orientation of the site and the arrangement of plots at this location has resulted in a situation whereby No. 44 Clanbrassil Street suffers from significant levels of existing overshadowing. I am not convinced based on the documentation provided together with an examination of the site context, sun path, building to space

relationship and other relevant factors that the proposed development, if permitted, would add significantly to this existing situation. As such I do not consider that the proposed development would result in a significant adverse additional diminishment of residential amenities by way of increased overshadowing through to loss of daylighting and sun lighting entering into adjoining and neighbouring properties.

- 7.3.22. In relation to visual intrusion, while the proposed development, if permitted, would give rise to a change in context, particularly for the appellants property, in my view it could not be considered as visually intrusive or out of context with the pattern of development that has occurred to the rear of the 'Garden Terrace' group of properties that the subject property forms part of. In addition, the two-storey structure is a modest maximum ridge height of 6.03m which is not in my view an excessive height in terms of providing a two-storey extension in this context and a context where such height graduates in its height from the single storey nature of this terrace group to the taller 2-storey buildings in its context including nearby structures addressing the eastern side of Clanbrassil Street Upper.
- 7.3.23. Further, it forms part of an inner city urbanscape where there is a tightness of grain accommodating that reflects its long the historical evolution as part of Dublin city to the present day where the historical restrictive nature of the plots is evident in plots like that of the subject site which have an overall stated site area of 86m<sup>2</sup> which gives rise to limitations in terms of accommodating qualitative residential amenity improvements for dwelling units thereon.
- 7.3.24. In terms of potential for noise arising from any mechanical ventilation system or otherwise, I consider that such systems should they be required for the wet room at first floor level should be accommodated within the roof structure and should not oversail or be directed towards the adjoining property to the north as this could potentially diminish the residential amenities of this property mainly by way of noise nuisance.
- 7.3.25. In terms of the residential amenity for occupants of the subject property I accept that the proposed additions and alterations proposed would give rise to improved internal amenity space without compromising their existing private amenity space provisions.

#### 7.4. Visual Amenity Impact

- 7.4.1. As previously set out the proposed development sought under this application seeks to extend a modest single storey mid terrace dwelling which has a given existing 52m<sup>2</sup> floor that has already been subject to a number of additions and alterations in the past with the most recent consisting of a large contemporary bay window to the front which was granted permission by the Planning Authority under P.A. Ref. No. 3895/16. This has given No. 5 Garden Terrace a light weight and more contemporary appearance when appreciated from the adjoining terrace lane and it is not out of context in a terrace group that has been subject to many ad hoc alterations to the front and rear including by way of single and two storey extensions. This proposal seeks permission for a 2-storey contemporary design addition placed behind the ridge of the subject property and in its context where the original character and appearance of what was a historic vernacular group of artisan cottages is no longer highly legible due to the significant levels of change that have occurred, including other 2-storey rear built insertions this approach is not out of context and it is appropriate that the design should be reflective of its time and harmonise with its host dwelling which in this case it does.
- 7.4.2. Having inspected the site I observed that the terrace group which the subject property forms part of is set back from the public domain of Clanbrassil Street Upper. Views to it are restricted due to a number of factors including that enclosed front gardens are present to the front of each property within the terrace group that the subject property forms part of, with these including in some cases mature hedging to provide privacy to these front garden areas which appear to be the primary private open amenity space of each of these properties. The width of the access serving the Garden Terrace properties is restricted in its width and provides only for pedestrian access. In addition, the ground floor café structure located in the building situated on the northern side of the cul-de-sacs entrance point from Clanbrassil Street Upper (Note: No. 43 Clanbrassil Street Upper) contains an outdoor seating area that includes a number of structures with these extending in a southerly point to where they adjoin the pedestrian cul-de-sac access mentioned. Moreover, No. 43 in terms of its 2-storey built form extends further in a southerly direction than the principal building line of No.s 1 to 7 Garden Terrace.
- 7.4.3. These factors when taken together with overall built form of the cottages that make up the Garden Terrace and their relationship to their urban setting results in there



being extremely limited and localised views from the public domain towards them and in particular the subject property itself.

- 7.4.4. Further upon entry to the modest in length cul-de-sac pedestrian access it in itself has the appearance of a semi-private space that is simply there to provide access to the properties it adjoins. This space is not part of the public domain and appears to be a space that is in collective control and care of the properties who are reliant upon it for access.
- 7.4.5. I therefore consider that the addition of a two storey extension behind the maximum ridge height of this terrace property would not be visible from the public domain due to its placement behind the ridge of the host dwelling, having regard to the nature, scale, height and overall design of the two-storey element, the orientation of Garden Terrace relative to Clanbrassil Street Upper, the arrangement of buildings, structures and spaces, in particular in relation to the semi-private and public domain. As a result of these factors the proposed development would not be easily legible from the public domain or the semi-private domain of Garden Terrace itself.
- 7.4.6. I also observed that there is also a pattern of single and two-storey built forms within the surrounding site context which means that the modest in built form two-storey addition is not out of character and its c6.03m height still maintains subservience to properties on Clanbrassil Street Upper which has always been the case for Garden Terrace properties as a collective group.
- 7.4.7. Based on the above considerations I concur with the Planning Authority in this case that the proposed development does not merit refusal on visual amenity impact grounds.

## 7.5. Other Matters Arising

**Civil:** The development as presented in the submitted drawings show conflicting detail in terms of showing the relationship of the existing and proposed rear elevation relative to the boundary between the subject property and the appellants property. With many of the drawings showing that the proposed rear alterations and additions would occur up to the red line area of the applicant's site and in other drawings show that the redline area would be positioned in a manner where part of the proposed rear alterations and additions would be outside of the red line area. Therefore, suggesting the possibility that the development may not be fully confined to within the red line area of the site

which I consider to be a concern as there is no consent from the affected property owner for this. There is an ambiguity in my view that the applicants have sufficient legal interest to carry out the works proposed in its entirety with the appellant in this appeal case indicating that they do not consent to any access, trespass through to oversailing or overhanging of their property. Nor do they consent to any window on the boundary between the two properties.

Should the Board be minded to grant permission for the proposed development I consider that it should not just include an advisory note reiterating Section 34(13) of the Planning and Development Act, 2000 as amended which indicates that "*a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development*". It should also include a requirement that the development should be confined to within the site area itself and as a precaution setback from the rear boundary in the absence of appropriate consent to carry out works onto this boundary.

- 7.5.1. **Procedural:** Concerns are raised in relation to the accuracy of the drawings submitted with this application. I consider that they together with my inspection of the site are sufficient for the Board to make a determination of this appeal case which relates to a development that is proposed and does not relate to development that has already been carried out to the subject property to date.
- 7.5.2. **Enforcement:** In relation to enforcement and unauthorised development I consider that these are matters for the Planning Authority to deal with. Such matters are outside of the Boards remit in this case as they do not relate in my view to the proposed development which is for the Board to determine this application on its merits.
- 7.5.3. **Structural Stability:** Concerns are raised by the observer that the proposed development if permitted could compromise the structural stability of their period property. I consider that any works that occur on shared boundaries as said requires consent and any compromising of existing structures outside of the applicant's legal interest is a civil matter.

It is normal in the context of extensions like this that structural matters can be dealt with post planning and any revisions arising out of the requirements of the structural engineer can be dealt with by way of an amended application if that is the required outcome. I also consider that there is an onus on the applicant to consult with the

adjoining properties given that the proposed alterations and additions extend to boundaries shared with other property owners. There is a duty of care in such contexts that the works do not destabilise adjoining properties or give rise to any structural defects.

Should the Board be minded to grant permission it would be reasonable and appropriate that the proposed development given the constrained nature of the site, the mid terrace location in a terrace group that appear to date to c1820s and at a location where access is restricted that a Construction Management Plan and associated structural stability of the retaining and gable walls as necessary is conditioned to safeguard adjoining properties which I acknowledge are of period construction and building methodologies.

7.5.4. **Devaluation of Property:** I am not satisfied based on the information provided by the appellants and observer that the proposed development, if permitted, would give rise to any devaluation of property based on the lack of any evidence provided by an expert on such matters alongside having regard to the site's context and the pattern of development in the vicinity of this inner-city site.

7.5.5. **Construction Nuisance:** Concerns are raised that the proposed development, if permitted, would give rise to residential diminishment during the construction phase. I consider that such nuisances would be of a limited duration and that it is standard practice to include conditions that seek to minimise such impacts. Therefore, should the Board be minded to grant permission for the proposed development I recommend that such conditions be imposed in the interests of safeguarding and protecting residential amenities of properties in the vicinity.

## 7.6. **Appropriate Assessment**

7.6.1. Having regard to the nature and scale of the proposed development, the construction of a single dwelling, within a serviced area, and having regard to the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on the conservation objectives of any European site.

## 8.0 Recommendation

8.1. I recommend that planning permission be **granted**.

## 9.0 Reasons and Considerations

Having regard to the zoning objective for the site, the pattern of development in the vicinity and the policies of the current Dublin City Development Plan 2016 to 2022, it is considered that, subject to compliance with the conditions below, the proposed development would not seriously injure the residential or visual amenity of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application 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 interests of clarity.

2. The proposed development shall be amended as follows:

(a) The first-floor level rear extension in its entirety shall be setback from the rear boundary and shall be maintained entirely within the confines of the site.

(b) The glazing of the first-floor rear window shall be of manufactured opaque or frosted glass and shall be permanently maintained as such. The application of film to the surface of clear glass is not permitted.

(c) Any mechanical and ventilation systems required to facilitate the proposed development should be accommodated at roof level and shall not vent out or otherwise from the rear elevation of the dwelling.

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

**Reason:** In the interest of clarity and the protection of residential amenities of adjacent properties.

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

**Reason:** In the interest of visual amenity.

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

**Reason:** In the interest of public health.

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

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

6. The site development works, and construction works shall be carried out in such a manner as to ensure that the adjoining cul-de-sac lane and adjoining public roads are kept clear of debris, soil, and other materials and if the need arises for cleaning works or repair to be carried out to the same, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining lane and roads are kept in a clean and safe condition during construction works in the interests of orderly development.

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

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

8. Prior to commencement of development, detailed structural drawings and a construction methodology statement indicating the means proposed to ensure the protection of the structural stability of the retained side party gable walls and roof structure over as well as rear boundary walls shall be submitted to and agreed in writing with the planning authority. These details shall include demonstrating the methods proposed to part dismantle and retain the existing façade as proposed, demolition and excavation arrangements, the proposed foundation system and underpinning, structural bracing and support and method of construction.

**Reason:** In the interest of preserving the heritage value and stability of the retained structure and adjoining structures.

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery,

and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

***Advisory Note:***

- 1. The applicant is advised of Section 34(13) of the Planning and Development Act, 2000, as amended that “a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development”.*
- 2. A grant of planning permission does not entitle the applicant to construct a development that would oversail, overhang or otherwise physically impinge upon an adjoining property without the permission of the adjoining property owner.*

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Patricia-Marie Young  
Planning Inspector

1<sup>st</sup> day of August, 2021.