



An
Bord
Pleanála

Inspector's Report

ABP-310536-21

Development	Construction of attic conversion and works for vehicular entrance including partial removal of plinth and railings, earlier application (ABP.309909-21/P.A. Ref. No. 2085/21).
Location	No. 9, Marine Drive, Sandymount, Dublin 4.
Planning Authority	Dublin City Council - South.
Planning Authority Reg. Ref.	2493/21.
Applicants	Karen Clarke and Alan Giles.
Type of Application	Planning Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	<ol style="list-style-type: none">1. Third Party.2. Applicant.
Appellants	<ol style="list-style-type: none">1. Catriona Ní Chuív.2. Karen Clarke & Alan Giles.
Observer(s)	None.

Date of Site Inspection

29th day of July, 2021.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

- 1.1. No. 9 Marine Drive, the appeal site, was subject to a recent appeal case ABP-309909-21 that was determined by the Board on the 24th day of May, 2021. I consider that the site location and description given by the Boards Inspector for this case is in part applicable. It reads as follows:

“The site is located on Marine Drive, Sandymount, which is a suburban road linking Sandymount Road with Strand Road, just to the east of the village main street. Marine Drive is a low-density suburban street of primarily 2-storey semi-detached dwellings dating from the 1930s, with a short terrace of Victorian dwellings at the Sandymount Road end, and a few houses dating from the 1950s/60s to the east of this terrace. The Victorian dwellings comprises a terrace of three (Nos. 5, 7 and 9) red-bricked 2-storey dwellings with traditional sash windows. They are situated to the rear of the Tesco Metro on the corner of Sandymount Road and Marine Drive. The houses are set back from the road with front gardens that are defined by railings and hedges. Two of the dwellings have individual vehicular entrances and one (the appeal site) has a pedestrian entrance only. No. 5 is bounded to the west by the service delivery entrance to Tesco (which is secured by means of a high security gate) and all three properties back onto the rear service yard. The appeal site is at the eastern-most end and the appellant’s property is the mid-terrace house (No. 7).

The site area of the appeal site is given as 0.0216ha (216m²).”

- 1.2. To this I note that at the time of my inspection of the site works were significantly progressed in terms of the construction of the part two storey and part single storey extensions with the interior of this attractive period dwelling largely gutted as part of the works permitted under ABP-309909-21 (P.A. Ref. No. 2085/21). In terms of the single and two storey rear extensions now present on the site both are set inside of the rear side boundary walls. The rear boundary walls consist mainly of period granite stone walls. Against the rear boundary is a modest timber single storey gable fronted shed. The rear boundary is substantially overgrown and is of a significant height blocking views in that direction.
- 1.3. The streetscape of Marine Drive has a mature residential character containing a number of different architectural period residential period built insertions. There is pay and display on street car parking along this public road.

2.0 Proposed Development

2.1. Planning permission is sought for:

- An attic conversion of habitable use to include a new metal clad dormer window to the rear roof.
- Provision of a rooflight to the front roof.
- Construction works to provide a new vehicular entrance from Marine Drive including partial removal of existing plinth and railings together with dishing of the public footpath.
- All associated works.

2.2. According to the submitted planning application form the proposed development would give rise to an additional 9.2m² floor area which together with the floor area existing and permitted to be retained would result in a cumulative overall gross floor area of 171.7m².

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 21st day of May, 2021, the Planning Authority decided to **grant** planning permission for the proposed development subject to 10 no. mainly standard conditions including:

Condition No. 2(a): Requires the dormer extension to be set 2m in from the gable of the house and have a maximum width of 3.5m.

Condition No. 2(b) Requires the dormer extension to be setback a minimum 0.5m from the eaves of the house.

Condition No. 2(c): Requires the roof light to the front roof slope to be omitted.

Condition No. 4: Restricts the width of the vehicle entrance to 2.6m.

Condition No. 5: Requirements for the vehicle entrance.

There are a number of advisory notes attached to the grant of permission including one reiterating Section 34(13) of the Planning and Development Act, 2000, as which

states that “a person shall not be entitled solely by reason of a permission or approval under this section to carry out a development”.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer’s report dated the 20th day of May, 2021, is the basis of the Planning Authority’s decision. It includes the following comments:

- The design and scale of proposed dormer is not deemed to be acceptable.
- No adverse overlooking, overshadowing, or overbearing would arise on adjoining properties from the proposed development.
- The proposed dormer would not be visible from the public realm of the ACA.
- It is recommended that the proposed roof light to the front roof slope be omitted in the interest of protecting the uniform appearance of the terrace group.
- There is no ability for the applicants to provide off-street car parking elsewhere and there is sufficient space for a standard vehicle to park to the front of the dwelling diagonally. In addition, the remaining two terrace properties of the group have front parking areas.
- The railings to the front of the subject property are not unique significance.
- This report concludes with a recommendation to grant permission.

3.2.2. Other Technical Reports

Transportation: The Transportation Planning Division report dated the 5th day of May, 2021, includes the following comments:

- The depth of the front garden area is 4.5m and the Development Plan standards require a depth of 4.5m of front garden area to accommodate off-street car parking in this type of context.
- There is insufficient depth in the front garden without overhanging of the public footpath.
- It is acknowledged that there are some existing historic driveways, the site has a smaller front garden depth when compared to the other side of the street.

- The proposed development would result in the removal of an on-street parking space on a pay and display road where parking is in high demand. This is not supported by the Development Plan. In particular MT14 which seeks to minimise loss of on-street parking. In addition, Section 16.38.9 of the Development Plan similarly sets out a presumption against the loss of on-street car parking spaces where residents are largely reliant on on-street car parking spaces. In this context to permit the proposed vehicular entrance to accommodate off-street car parking space would set an undesirable precedent in this area.
- It is recommended that this component of the development be **refused** for the following stated reason:

“The proposal for the removal of on-street car parking spaces to accommodate a private vehicular access, is contrary to Dublin City Council policy and would reduce the supply of on-street car parking and set an undesirable precedent. The proposed development would directly contravene Policy MT14 of the Dublin City Development Plan 2016-2022 which seeks to retain on-street parking as a resource for the city, as far as practicable. The car parking area is of insufficient depth and does not accord with the Development Plan standards, Appendix 5, and would give rise to conflicts between vehicles and pedestrians by overhanging and obstructing the footpath. The proposal would, therefore, be contrary to the proper planning and sustainable development of the area.”

Engineering: No objection subject to safeguards.

3.3. Prescribed Bodies

- 3.3.1. None.

3.4. Third Party Observations

- 3.4.1. The 3rd Party Appellant submitted an observation to the Planning Authority during the course of its determination of this appeal case. This is attached to file, and I have noted its content. I consider the substantive concerns set out in this observation correlate with those set out by them in their appeal submission to the Board which I have summarised under Section 6 of this report below.

4.0 Planning History

4.1. Site:

ABP-309909-21 (P.A. Ref. No. 2085-21): On appeal to the Board planning permission was **granted** subject to conditions for a development consisting of the partial demolition of rear ground floor return (to enable ground floor extension to be built as exempt development) and construction of a new first floor rear return extension to the existing dwelling together with all associated site works.

4.2. In the period Terrace Group No. 9 Marine Terrace forms part of:

P.A. Ref. No. 3267/04: Planning permission was **granted** for first floor rear extension to rear of 11.76m² and balcony over ground floor extension of 16.36m² (exempted development) in Sept. 2004. The balcony was omitted by condition at No. 7 Marine Drive.

P.A. Ref. No. 3666/98: Planning permission was **granted** subject to conditions for a vehicular entrance and off-street car parking to No. 7 Marine Drive.

P.A. Ref. No. 2476/96: Planning permission was **granted** for vehicular entrance and off-street car parking at No. 5 Marine Drive.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Dublin City Council Development Plan, 2016 to 2022, is the applicable plan, under which the site is zoned 'Z1' for which the land use objective is to: *"to protect, provide and improve residential amenity"*.

5.1.2. The indicative plot ratio for this zone is 0.5-2.0 and indicative site coverage is 45-60%.

5.1.3. The site is also located within an Architectural Conservation Area.

5.1.4. The following Development Plan policies are relevant:

Policy CHC1:	Seeks the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.
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Policy CHC4: Seeks to protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.

Policy CHC8: Seeks to facilitate off street car parking where appropriate site conditions exist.

Policy MT14: Seeks to minimise the loss of on-street car parking.

5.1.5. Section 16.10.12 and Appendix 17 – Guidelines for Extensions to Dwellings require residential extensions to have regard to the amenities of adjoining properties and in particular to the need for privacy and light. It sets out that extensions should be subordinate to the main dwelling in terms of scale. The form of the existing dwelling should be followed as closely as possible. Specifically, such proposals should:

- Not have an adverse impact on the scale and character of the dwelling.
- Not adversely affect the residential amenities enjoyed by the occupants of adjacent buildings in terms of privacy, outlook and access to daylight and sunlight.

5.1.6. Section 16.38.9 of the Development Plan sets out that there is a presumption against the loss of on-street spaces to facilitate the provision of vehicular entrances to single dwellings in predominantly residential areas where there is a reliance on on-street car parking spaces. In addition, Section 24.4 sets out the requirements in respect of residential parking in the Architectural Conservation Areas and Conservation Areas with further guidance set out in the 'Parking Cars in Front Gardens' leaflet published by Dublin City Council.

5.1.7. Appendix 17.11 sets out the guidelines for roof extensions.

5.2. Natural Heritage Designations

5.2.1. South Dublin Bay SAC and South Dublin Bay and River Tolka Estuary SPA lie approx. 150m to the east and North Dublin Bay SAC and North Bull Island SPA lie approx. 5km to the north-east.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The following separate appeal submissions were received by the Board:

1. Catriona Ní Chuív, 3rd Appellant and owner/occupier of adjoining property No. 7 Marine Drive (15/06/21).
2. Karen Clarke & Alan Giles, First Party (the applicants) and owners of No. 9 Marine Drive (17/06/21).

These two separate appeals are summarised separately in date order as received by the Board under the following sections below.

6.1.2. The **Third-Party Appeal** submission can be summarised as follows:

- The Planning Authority's decision does not conform with local planning provisions.
- The removal of the roof light from the front roof slope is supported.
- The amendments to the dormer extension sought by way of condition are an improvement to the original design sought but do not reflect the standards set out under Section 16 and Appendix 17 of the Development Plan in relation to roof extensions.
- Concerns are raised in relation to the interference that the proposed dormer window would require to the historic ceiling joists of this terrace property and the implication of such works on adjoining and neighbouring properties in this terrace.
- No consent will be given for any interference with No. 7 Marine Drive to facilitate this development.
- The Planning Authority's Planning Officer has taken a narrow view considering residential amenity impact and has not had regard to well-being.
- The Development Plan requires such interventions to respect any existing uniformity of the street, together with significant patterns, rhythms, or groupings of buildings. The proposed development does not.
- The provision of a bulky flat roofed dormer with its top just 20cm below the peak ridge would disrupt the uniformity of the rear roof pitch of this terrace group.

- Extensions are required to be subordinate to the existing building in their scale and design. This dormer window does not achieve this and is visually incongruous in its context from any view point.
- It is not accepted that the reductions in the built form of the dormer window as required under Condition No. 2 achieves a visually subordinate built form given that it still remains 20cm below the ridge height of the main dwelling.
- Exempted development concerns are raised.
- Concerns are raised in relation to the lack of consultation with her by the applicants.
- As the subject property forms part of an Architectural Conservation Area, its roof structure merits protection from the insertion of dormer extensions.
- Various structural issues are raised. It is requested that the Board should be minded to grant permission include Condition No. 3 of their previous grant of permission ABP-309909-21 to provide some assurance on this matter.
- A further reduction of the width and height of the dormer is requested in the event of the Board granting permission of the dormer extension.

6.1.3. The **First Party Appeal** can be summarised as follows:

- This appeal submission seeks to appeal the requirements of Condition No. 2a only.
- The subject application is to create a habitable attic space with a rear facing dormer window, off-street car parking by way of the creation of a new vehicular entrance and a rooflight to the front pitch of the existing roof.
- This proposal seeks to improve the residential amenity and suitability for it to function as a family home.
- The main structure is substantially retained with the dormer extension being located to the rear.
- Various extracts of the Planning Officer's report are set out.
- Examples of dormer extensions are provided.
- It is considered that the reduction in width of the dormer by 1m has a negligible visual impact on its location as the dormer relates to the least prominent façade of the house and cannot be seen from the public realm. However, the reduced size

internally would have a significant impact on the functionality of the space for occupants of this dwelling given the narrow width of the house and the space required for the stairs.

- The Board is therefore requested to omit Condition No. 2(a).

6.2. Applicant Response

6.2.1. On the 7th day of July, 2021, a response was received from the Applicant to the Third-Party grounds of appeal. It can be summarised as follows:

- The internal renovations to which the appellant raise concerns in relation to are not in their view a planning matter.
- A structural engineer is involved to ensure that no impact arises to the neighbouring property as a result of the works.
- An independent structural survey has been carried out with the 3rd Party Appellants consent by the applicant. In addition, the designers of the proposed alterations and additions to the subject property are accredited Conservation Grade 3 with significant years of experience working on similar buildings and similar proposals.
- The repetition of the appellants claims on the impact on the structure of her property are considered to be unnecessary and vexatious.
- The applicants have offered to construct a fire wall between the attic space of the subject property and the 3rd Party Appellant at their expense, but this was rejected, and the applicants propose to construct a fire separation on their side of the boundary which requires more onerous work and loss of attic space.
- The 3rd Party Appellant seeks details of the fire separation which is entirely within the applicant's property and provide no reason for this. This is considered to be vexatious and outside of planning law.
- The 3rd Party Appellant seeks to set out what is acceptable and not acceptable dormer windows by referencing various sections of the Development Plan.
- The view of the street and the integrity of the roof of the three dwellings in this terrace would be unaltered.

- The dormer window allows for increased floor to ceiling height without impacting on the character and setting of the dwelling.
- No element of the original rear roof will be appreciable from the rear garden of the subject property, and the proposed dormer it would not be highly visible from No. 7 given the position of their pitched roof extension.
- The request made by the 3rd Party Appellant that the ridgeline be unbroken when viewed from ‘a normal viewpoint’ is unreasonable.
- The design, finishes, and fenestration of the proposed dormer is an appropriate design solution and the amendments suggested by the 3rd Party Appellant would be unsympathetic in its context.
- The applicants made several attempts to discuss their proposals in advance of making this application, but these were rejected by the 3rd Party Appellant.
- All reasonable cautions have been taken to protect the structure of the 3rd Party Appellants property.
- The subject property and adjoining properties are not Protected Structures.
- The subject property is within an ACA but cannot be viewed from the public domain.
- There is no onus to alert planning authorities of exempted development.
- Internal renovation works are exempt and will be carried out without impact on the appellants property.

6.3. Planning Authority Response

6.3.1. None.

6.4. Appellants Response to the First Party Appeal

6.4.1. The 3rd Party Appellants response to the First Party Appeal can be summarised as follows:

- It is contended that the single storey annex was long demolished and construction had commenced on the extension at the date the applicant made their 1st Party appeal in relation to Condition 2(a).
- The applicant omits “to protect” from the applicable zoning objective.

- The dormer extension would utterly intrude on the unified appearance of the rear roof slope of this terrace group and it would not be subordinate to the roof from any view point.
- It is a requirement under the Development Plan to respect the uniformity of terrace groups of buildings with a consistent building line.
- This proposal would result in overlooking of No. 11 Marine Drive.
- This proposal, if permitted, would involve intrusive interventions to a linked structure.
- The dormer does not restrict its width as is it required under Appendix 17 of the Development Plan.
- The proposals for No. 9 Marine Drive involve significant loss of built fabric and this application would effectively result in a 3rd floor level.
- The precedents set out by the applicant in their response to their 3rd Party Appeal are not accepted due to the difference of site context and applicable local planning provisions.
- The applicant's interests should not outweigh planning standards and conservation policies.
- The applicant's agent appears to suggest that the dormer's location to the rear of this property dispenses with heritage and visual incongruity concerns.
- The applicant has not provided objective grounds for allowing the dormer extension.
- It should be questioned whether the modest reduction of the dormer's width required under Condition No. 2(a) is a sufficient measure to protect this structure within this historic terrace setting from excessive and irreversible interventions.
- It is sought that the Board refuse permission for the dormer extension.

7.0 Assessment

7.1. Introduction

7.1.1. Having carried out an inspection of the site and its setting, having examined the documentation on file including all submissions and responses contained therein, and had regard to all relevant planning provisions, I consider that the following are the main issues arising in the *de novo* assessment of the subject appeal are:

- Principle of Proposed Development
- Visual Amenity Impact
- Residential Amenity Impact

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

7.1.3. I note that this appeal case is subject to a separate First Party which seeks that the Board omit Condition No. 2(a) from the Planning Authority's notification to grant planning permission and a Third-Party appeal submission which seeks the Board to examine the merits of the development proposed under this application *de novo*. For clarity, my assessment below is a *de novo* assessment of the proposed development with this assessment having had full regard to the issues raised by both Parties in their appeal submissions to the Board.

7.1.4. I also note that the 3rd Party Appellant as part of their appeal submission to the Board sets out a number of concerns ranging from civil matters, procedural matters, the potential of the proposed development to give rise to structural stability issues for adjoining properties and the period terrace group that No. 9 Marine Drive forms part of as a whole, through to enforcement concerns. I consider that these matters fall outside of the Boards remit in their determination of this appeal case.

7.2. Principle of the Proposed Development

7.2.1. The proposed development sought under this application seeks planning permission for a dormer window to the rear elevation, a roof light in the front roof slope serving the proposed attic habitable space and the associated works involved in the provision of a vehicle entrance accessed of the public domain of Marine Drive to a proposed off-street car parking space in the semi-private domain between the principal façade of

the subject dwelling and its roadside boundary, at No. 9 Marine Drive, an end of terrace group of three originally matching period redbrick dwellings.

- 7.2.2. No. 9 Marine, the appeal site is located in an area that is zoned Objective Z1. The land use zoning objective for such lands is: “*to protect, provide and improve residential amenities*” under the provisions of the Dublin City Development Plan, 2016 to 2022.
- 7.2.3. In general, residential development such as the additions and alterations to existing dwellings are deemed to be acceptable on ‘Z1’ zoned land subject to safeguards. With these safeguards being further added to by this ‘Z1’ parcel of land also forming part of the designated ‘*Sandymount Architectural Conservation Area*’, for which it is policy of the Development Plan to protect its special character and only permitting development that would contribute positively to its character and distinctiveness (Policy CHC 4).
- 7.2.4. Notwithstanding, in relation to the creation of a vehicle entrance by the removal of c2.6m of period railings and their associated plinths in order to provide access to a proposed off-street car parking space on a public road which I observed at the time of my site inspection despite many properties along Marine Drive benefitting from off-street car parking there was heavily reliant upon its publicly provided on-street car parking provision. I also observed that the creation of the proposed vehicle entrance would necessitate the loss of one on-street car park on the public domain of Marine Drive.
- 7.2.5. Having regard to the provisions of the Development Plan, in particular Policy MT14, which seeks to retain on-street parking as a resource for the city and Section 16.38.9 of the Development Plan which I note also sets out a presumption against this type of development where a loss of on-street car parking would occur in an area where residents are largely reliant on on-street car parking spaces to meet their needs this type of development is not generally deemed to be acceptable.
- 7.2.6. With this being added to by the fact that the front garden of this property is of insufficient depth and width to accommodate one-car parking space and its associated turning movements for safe access and egress onto the public domain with minimal manoeuvres thereon. The minimum depth required for the provision of an off-street car parking space in the front garden under the Development Plan is 5m. The depth of the front garden is 4.5m and together with its c6.6m width would mean that parking for an average car could only occur at a diagonal. With negligible internal manoeuvring

space for an average sized car to ensure access and egress onto the public domain occurs in forward gear.

- 7.2.7. The limited depth of the front garden space means that there is potential for overhanging of the vehicle onto the pedestrian footpath. In addition, as said parking at a diagonal has the potential to result in additional manoeuvres during accessing and egressing of this space particularly considered the design of the entrance and its width. As a result, there is greater potential in this type of situational context for conflicts to arise between vehicles accessing and egressing from the proposed off-street car parking space and those using the adjoining public domain which immediately consists of a pedestrian footpath and then the public road carriage. Thus, there is a traffic safety and traffic hazard risk for all users of the public domain from vulnerable road users to motorists.
- 7.2.8. As set out under Section 3.2.2 of this report these concerns are also echoed by the Planning Authority's Transportation Division. They recommended that this component of the proposed development is refused based on it being contrary to the Development Plan provisions on such developments alongside as the adverse traffic safety implications that have the potential to arise, if permitted.
- 7.2.9. I note that there are historical vehicle entrances within the setting of No. 9 Marine with this including the two terrace properties it forms part of containing a loss of historic built fabric by way of the provision of off-street car parking. These do not relate to any recent grants of permission by the Board who I note are not bound by the decisions of the Planning Authority. Notwithstanding, there are not comparable site situations where such interventions have been permitted by the Planning Authority in this streetscape recently under the context of this Development Plan where the same restricted in depth and width front garden contexts was a factor for consideration.
- 7.2.10. I do not consider these precedents to be of sufficient merit to outweigh the fact that the local planning provisions relating for such works have become more robust with the public good being put to the fore by way of the protection of on-street car parking provision and the safety of users of the public domain from undue traffic hazards or road safety issues.
- 7.2.11. Moreover, having regard to the sites setting in an Architectural Conservation Area where erosion of historic building fabric has diminished its intactness and integrity

which in turn has diminished its visual qualities as appreciated from the public domain developments that further diminish their intrinsic character are not supported by the Development Plan policies and guidance including Policy CHC 4 which seeks to protect such areas from developments that do not positively enhance or contribute to these areas that are recognised to be sensitive to change.

7.2.12. For these reasons I consider that the principle of the proposed vehicle entrance and the off-street car parking space is not acceptable.

7.2.13. I consider that this is a **new issue** in this appeal case.

7.3. Visual Amenity Impact

7.3.1. The 3rd Party appellant raises concerns in relation to the design, the overall built form, the use of materials through to the fenestration details of the glazing of the proposed dormer window. They also support the Planning Authority's omission of the roof light to the front roof slope of this terrace group of period dwellings that were once a modest group of matching in architectural design, built form, appearance through to building to space relationship properties that addressed the northern side of Marine Drive, in close proximity to its intersection with Sandymount Road.

7.3.2. I also note that the applicant raises no objection in their appeal submission to the Board or in their response to the 3rd Party's ground of appeal to the omission of the front roof light.

7.3.3. Having inspected the site and its setting as part of the Sandymount Architectural Conservation Area I consider the omission of the roof light on the front roof of the subject property is appropriate in terms of protecting and safeguarding the coherent and what is visually as appreciated from the public domain an intact roof structure, which is one of the main built features, of this modest group of three period dwellings. As such it is my view that the insertion of the proposed roof light in the front roof slope of this terrace group would diminish this terrace groups intactness of original built form, character and appearance as appreciated from the public domain.

7.3.4. This in my view would be contrary to Policy CHC 4 of the Development Plan which seeks to protect the special character of such conservation areas and to only permit developments within it that positively contribute to its character and distinctiveness.

- 7.3.5. Arguably this is similarly applicable to the removal of existing plinths and railings on the roadside boundary to facilitate a new vehicle entrance gate and off-street car parking space that would effectively change the semi-private area to the front of this dwelling which was designed to be and historically maintained as a soft landscaped area that buffered the dwelling from the public domain. The provision of a car parking space erodes the original design intent for this terrace group and similar terrace groups that address Marine Drive, particularly where these semi-private domains are modest in their overall area.
- 7.3.6. In terms of the other proposed components of the development sought under this application these are not visible from the public domain of the Architectural Conservation Area and whether or not the Board seeks to permit the omission of Condition No. 2a or not the dormer window extension would be an insertion to what is a significantly modified and altered rear presentation of both the subject dwelling and the terrace group it forms part of.
- 7.3.7. Moreover, the dormer window like other insertions to the original rear presentation of this terrace property will not be visible from any public view points to the rear of the property either including other public domain areas forming part of the wider Architectural Conservation Area.
- 7.3.8. Due to the arrangement of buildings and spaces relative to the subject property alongside the other significant additions that have occurred to the rear elevation of the adjoining period terrace property, i.e., No. 7 views of the dormer window extension would be limited to negligible in terms of the appreciation of this period terrace group.
- 7.3.9. Given the limited visibility of the dormer window that is proposed the reduction in its width as required under Condition 2(a) would not in my view greatly alter the visibility or indeed the perception of subservience to the host dwelling of this new built insertion as viewed from adjoining and neighbouring properties within its visual curtilage. But would result in what is to be a proposed habitable space at attic level offering less qualitative internal residential amenity space for occupants of the subject property. I also consider that the greater separation required under Condition 2(b) of the Planning Authority's notification provides a more appropriate separation between the eaves and the proposed dormer without significantly adversely impacting the function of the habitable space proposed. This amendment allows the original roof structure to be

more appreciable in the round from the new built layer of the dormer window as the principal built feature above eaves level of the host dwelling and its period terrace group.

- 7.3.10. I also consider that the use of contemporary building materials not only marries in with the rear extensions recently permitted by the Board under ABP-309909-21 (P.A. Ref. No. 2085/21) it ensures that the dormer window is legible as a building layer of its time and window size through to fenestration is one that also marries in with the contemporary design approach taken to extending the habitable area of this period property to the rear.
- 7.3.11. It also makes sense in my view in terms of the internal layout of the attic space proposed and is in a location where a window of such a size whilst having the ability to add lightness to the appearance of the dormer window would not give rise to any significant visual overbearance or indeed significant adverse overlooking impacts and/or diminishment of established levels of privacy of adjoining and neighbouring properties in its vicinity.
- 7.3.12. Subject to the setback of the dormer window from the eaves and the omission of the front roof light I consider that the dormer window extension sought is otherwise acceptable and it would provide improved residential amenities for occupants of No. 9 Marine Drive in a manner that would not give rise to any adverse visual amenity impacts on its Architectural Conservation Area setting or as viewed from vantage points within its immediate to wider visual setting.

7.4. Residential Amenity Impact

- 7.4.1. In terms of residential amenity impact, I acknowledge that the further maximising of habitable space provision for occupants of this dwelling is a type of development that is generally supported by the Development Plan, subject to safeguards. Including that they are designed in such a manner so as to ensure that no undue residential amenity loss arises to adjoining properties and properties in its vicinity.
- 7.4.2. The 3rd Party Appellant raises concerns that the proposed development has the potential to give rise to residential amenity loss with the main concern being that, if permitted, it could structurally compromise the appellants property which would give rise to a loss of her wellbeing and feeling of safety within her home.

- 7.4.3. Whilst I do not consider it unreasonable and unfounded to have structural stability concerns in relation to her property given that is one of three period properties that make up the terrace group No. 9 Marine Drive forms part of. Particularly given that her property is the adjoining period dwelling and that the proposed dormer window extension and its associated attic conversion would essentially create a 3rd floor level of habitable accommodation in a historic 2-storey period terrace group.
- 7.4.4. I also consider that it appears that the applicants have sought to design and carry out these works in a manner that has due cognisance to this issue.
- 7.4.5. Notwithstanding, this issue is in my view one that is primarily a civil and building regulations matter. Therefore, it lies outside of the Boards remit in their determination of this appeal case particularly as neither the host dwelling nor the 3rd Party appellants property benefit from any specific protection as Protected Structures under the Development Plan's Record of Protected Structures.
- 7.4.6. I further note that the applicants indicate that the works that relate to the development proposed will occur in its entirety within the legal confines of their property and will not interfere with the 3rd Party Appellant. Alongside all reasonable precautions have and would be employed during construction phase including the prior and during construction phase the use of a structural engineer.
- 7.4.7. I note that the conditions attached to the Boards Order in relation to ABP-309909-21 included a condition that sought to provide some level of safeguard to protection of the structural stability of the retained gable wall of the return given that it is a period structure and an end of terrace period structure where its gable wall is a visible element from the public domain.
- 7.4.8. The appellant seeks that this type of condition is also included in any grant of permission.
- 7.4.9. Whilst I note that the applicant in their response to the grounds of appeal indicate that their works will not interfere with any shared internal wall between No. 9 and No. 7 Marine Drive, I do not consider this to be unreasonable to include a similar condition to Condition No. 3 of the Boards Order ABP-309909-21 given the contribution of this terrace group to the streetscape scene of the Architectural Conservation Area at this location and that the works do not destabilise the subject property or adjoining

properties or give rise to any structural defects which would give rise to loss of built original fabric and potentially built fabric that is legible from the public domain.

7.4.10. Should the Board be minded to grant permission for the attic conversion and dormer extension it may wish to include a similar condition.

7.4.11. In relation to other potential residential amenity impacts, as previously set out I do not consider that the proposed dormer window in terms of its overall design and built form having regard to its orientation, its juxtaposition to other properties and their amenity spaces through to having regard to the types of properties bounding it would give rise to undue overlooking over and above that which would be normally expected in this type of suburban context.

7.4.12. In terms of overshadowing having regard to the orientation of the property, the placement of the dormer window extension, the overall built form and volume of the dormer window extension through to its juxtaposition to other properties I am of the view that any additional levels of overshadowing that would arise for properties adjoining it and neighbouring it would be minimal.

7.4.13. In terms of construction nuisances, standard construction conditions should be imposed as part of any grant of permission, particularly having regard to sensitivity of residential settings like this. Any construction nuisances that arise should be minimised by compliance with such conditions and where these are not complied with concerns can be raised to the Planning Authority as an enforcement matter for them to investigate and deal with as they see fit. Moreover, construction nuisances would be temporary in nature.

7.5. Appropriate Assessment

7.5.1. The site does not form part of or is it located near to any Natura 2000 site. It lies within an established suburban area that is fully serviced. Accordingly, no Appropriate Assessment issues arise. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, 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 a European site.

8.0 Recommendation

- 8.1. I recommend a **split decision** with planning permission granted for the attic conversion to habitable space including a metal clad dormer window to the rear roof for the reasons and considerations set out under Schedule 1 below together with the conditions thereunder and that planning permission for the vehicle entrance from Marine Drive including partial removal of existing plinth and railings, dishing of the public footpath and associated works to accommodate an off-street car parking space in the front garden be refused for the reasons and considerations set out under Schedule 2 below.
- 8.2. I note that Schedule 2 relates to a **new issue** in the context of this 1st Party and separate 3rd Party appeal case.

Schedule 1

Reasons and Considerations

Having regard to the design, nature, scale, and extent of the attic conversion to habitable use which includes a new metal clad dormer window to the rear roof and subject to compliance with conditions, the proposed development would be satisfactory in the context of the visual amenities of the area and its location within the designated Sandymount Architectural Conservation Area. The proposal would also be acceptable in the context of adjoining and amenities and would, therefore, be satisfactory in the context of the proper planning and sustainable development of the area.

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 dormer extension shall be set back a minimum of 0.5m from the eaves of the house.

(b) The roof light on the front roof slope of the house shall be omitted.

(c) The vehicle entrance and associated works shall be omitted.

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. Prior to the 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 roof structure and the gable wall, 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 elevations as well as roof structure as proposed, demolition, reinstatement works and how as much original built fabric is maintained including detailing the juxtaposition between original and new building layers.

Reason: In the interest of preserving the heritage value and stability of the retained structure and the terrace group it forms part of.

4. 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.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

6. 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.

7. The site development works, and construction works shall be carried out in such a manner as to ensure that the 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.

8. 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.

9. 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.

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.*

Schedule 2

Reasons and Considerations

The proposed vehicular access onto Marine Drive would result in the removal of on-street parking to accommodate a private vehicular access which would be contrary to Policy MT14 and guidance on Section 16.38.9 of the Dublin City Development Plan, 2016 to 2022, which seeks to retain on-street parking as a resource for the city for both residents and the public. In addition, the proposed development fails to meet the required minimum standards for such works and as a result of the inadequate depth of the front garden has the potential to give rise to conflicts between vehicles and vulnerable road users by way of overhanging and the manoeuvring required to access and egress from the proposed car parking space. Further it would result in the loss of original built fabric from a roadside boundary of an attractive period property that forms part of the Sandymount Architectural Conservation Area. Thus, diminishing its contribution to this sensitive to change urbanscape setting. It would set also set an undesirable precedent for similar developments which cumulatively would diminish the character and quality of this Architectural Conservation Area for which it is a Development Plan policy to protect under Policy CHC 4 from the developments that would not contribute positively to its character and distinctiveness. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Patricia-Marie Young
Planning Inspector

1st day of August, 2021.