



An  
Bord  
Pleanála

## Inspector's Report ABP-311013-21

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<b>Development</b>	Partial demolition and renovation of The Barn as a house, construction of 5 terraced houses and construction of 2 semi-detached houses.
<b>Location</b>	The Barn, Riversdale Avenue, Bushy Park Road, Dublin 6
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	2027/21
<b>Applicants</b>	Insignia Investment Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Parties vs. Grant
<b>Appellants</b>	<ol style="list-style-type: none"><li>1. Ashling Harrison &amp; others</li><li>2. Neville Russell</li></ol>
<b>Observers</b>	<ol style="list-style-type: none"><li>1. Michael McKenna</li><li>2. Julia Cullinan &amp; Miriam Kent</li><li>3. Jim Dowling c/o Terenure Residents Association</li></ol>

**Date of Site Inspection**

13<sup>th</sup> July 2022

**Inspector**

Stephen Ward

## 1.0 Site Location and Description

- 1.1. The site is located at the end of Riversdale Avenue, approximately 500 metres southeast of Terenure village centre. Riversdale Avenue runs south from Bushy Park Road, and is a short, narrow cul-de-sac with a footpath along the eastern side. It is approximately 140 metres in length, ending with a turning area and gateway at the entrance to Riversdale House. The eastern side of the road is fronted by two storey semi-detached dwellings. The western side is bounded by a landscaped strip crossed by several vehicular accesses.
- 1.2. The gated entrance at the southern end of Riversdale Avenue consists of wrought iron gates and piers. It serves 'The Barn', Gageby House, Riversdale House, together with the adjoining lands. Riversdale House is a Protected Structure but is located further south, outside the site boundaries, where it is separated from the River Dodder by a dense belt of trees. It is understood to have been built in the early 19<sup>th</sup> century. In the 1960s the northern part of Riversdale House was either converted / extended or entirely re-built as a separate house called Gageby House (also referred to as 'Riversdale'). There is also substantial planting between Riversdale House and the application site. The Barn is included within the appeal site and is a vacant dwelling comprising two elements, a 2-storey mid-19<sup>th</sup> century stone structure and a single storey structure built in 1978.
- 1.3. The appeal site effectively consists of three parts. The portion to the west of the access road consists of The Barn and surrounding land. To the east of the access road is an undeveloped portion of land backing onto the 'Lauerlton' residential development. Finally, to the north (along the western side of Riversdale Avenue) is a narrow, landscaped strip. The site has a stated area of 0.2606 hectares and is relatively flat. It is generally bounded by more modern residential development to the east, west, and north, and by Gageby House and Riversdale House to the south.

## 2.0 Proposed Development

- 2.1.1. In summary, planning permission was sought for the following works:
  - Partial demolition and renovation of The Barn as a two-bedroom, two-storey detached house with apex rooflight (House no. 8, 91.2m<sup>2</sup>)

- Construction of 5 no. three-bedroom two-storey terraced houses (House no.'s 1-5, 143.8m<sup>2</sup> each)
- Construction of 2 no. two -bedroom two-storey semi-detached houses (House no. 6, 93m<sup>2</sup>, and House no. 7, 94.4m<sup>2</sup>);
- Provisions of access from the existing entrance on Riversdale Avenue
- 1 car parking space will be provided to the front of each house (8 no. in total)
- All associated site development works, landscaping and boundary treatment.

2.1.2. Foul water will be disposed via a new independent gravity combined sewer connection to the existing 225mm diameter combined sewer on Riversdale Avenue. There is no existing surface water network, and it is proposed that attenuated surface water flows will also be disposed via a new independent gravity combined sewer connection to the existing 225mm diameter combined sewer on Riversdale Avenue. Water supply will be provided from the existing 4" diameter cast iron watermain on Riversdale Avenue.

2.1.3. The proposed development was revised in response to the DCC request for Further Information. The main amendments involved a revised design and layout for house no. 6 (101.6m<sup>2</sup>) and no. 7 (106.1m<sup>2</sup>).

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. By order dated 13<sup>th</sup> July 2021, DCC decided to grant permission subject to 13 standard conditions. The decision was in accordance with the planning recommendation.

### 3.2. Planning Authority Reports

#### Further Information

3.2.1. Following an initial assessment of the application, a Further Information request was issued, which can be summarised as follows:

- (1) The applicant is requested to reconsider the design and arrangement of house nos. 6 & 7 by improving the relationship with 'The Barn'.
- (2) The applicant is requested to review the public open space provision.
- (3) The applicant is requested to clarify matters relating to:
  - a) Areas to be taken in charge
  - b) Proposals to reduce overspill parking and additional in-curtilage parking
  - c) Access for emergency and fire tender vehicles
  - d) Proposals for a preliminary Construction Management Plan.

3.2.2. The applicant responded with a revised design and arrangement for houses 6 & 7. It was suggested that no public open space would be provided and that a financial contribution could be paid in lieu. It was clarified that no areas would be taken in charge and revised parking proposals were submitted.

3.2.3. DCC subsequently issued a request for clarification of the further information submitted, to include clarification of access for emergency and fire tender vehicles, and a preliminary Construction Management Plan. The applicant responded to this request on 16<sup>th</sup> June 2021, including proposals to enlarge the existing turning area on Riversdale Avenue.

#### Planning Reports

3.2.4. There are three Planner's reports on file. The planner's assessment can be cumulatively summarised as follows:

- The proposal accords with the Development Plan's quantitative site standards.
- The proposal represents an opportunity to create an independent form of development and sense of place. Overall, it is not considered that the proposed development would be visually incongruous or contrary to the visual amenities or character of the area.
- The proposed alterations to 'The Barn' are in accordance with Development Plan policy and would retain much of the original form and features.

- The revised design and layout for houses 6 & 7 is in keeping with the style and character of Riversdale House and The Barn.
- There will be no significant impacts on the residential amenity of surrounding properties.
- The quality of the proposed dwelling would be acceptable in terms of light, ventilation, and private open space.
- A financial contribution can be made in lieu of public open space.
- The applicant has addressed the matters raised by the Transportation Planning Division.
- The report concludes that the proposal for increased density would make good use of the land, would not impact on residential amenity, and would be in keeping with the character of development. It is recommended to grant permission, and this forms the basis of the DCC decision.

#### Other Technical Reports

- 3.2.5. The first report from the Transportation Planning Division (1<sup>st</sup> March 2021) requests further information in relation to ‘taking in charge’ proposals; proposals to limit overspill parking and additional in-curtilage parking; emergency vehicle access; and construction management. The second report (21<sup>st</sup> May 2021) states that proposals for ‘taking in charge’ and car-parking are acceptable, but requests clarification in relation to emergency vehicle access and construction management. The final report of 7<sup>th</sup> July 2021 outlines that concerns in relation to emergency vehicle access and construction management have been addressed, and states that there are no objections subject to conditions.
- 3.2.6. The report from the Environmental Health Officer outlines that there are no objections subject to conditions.
- 3.2.7. The Drainage Division report confirms that there are no objections subject to conditions.

### **3.3. Prescribed Bodies**

No submissions received.

### 3.4. Third Party Observations

3.4.1. Several third-party observations were received. The issues raised are largely covered in section 6 of this report and can be summarised as follows:

- The planning history of decisions has not been adequately addressed
- Excessive quantum of development
- Adverse impacts on the character of the area and Riversdale House
- Overlooking and overbearing impacts on surrounding properties
- Adverse impacts on traffic and parking arrangements
- Construction phase impacts
- Boundary and ownership details
- Inadequate public and private open space
- Impacts on electricity supply, water supply, and drainage
- Waste storage and collection.

## 4.0 Planning History

The following applies to the appeal site, or parts thereof.

**P.A. Reg. Ref: 2976/20:** Permission refused (August 2020) for development consisting of partial demolition and renovation of 'The Barn' as a two bedroom, two storey detached house with apex rooflight; construction of 5 no. three bedroom, two storey terraced house; construction of 2 no. two bedroom, two storey semi-detached houses; access from the existing entrance on Riversdale Avenue; 8 no. car parking spaces to the front of the houses; all associated site development works, landscaping and boundary treatment works. The reasons for refusal were as follows:

1. *The proposed development, by providing residential accommodation where some dwellings would have insufficient daylight, sunlight and where private open space would be of insufficient quality due to the failure to ensure that*

*adequate levels of sunlight reach the space throughout the year and the lack of suitable public open space, would be contrary to the policies and objectives of the Dublin City Development Plan. The proposed development would therefore fail to provide an adequate standard of residential amenity for future residents and would be contrary to the proper planning and sustainable development of the area.*

2. *Having regard to the location of the site within an established residential area, and having regard to the established pattern of development in the area, it is considered that the proposed development, by reason of its bulk, scale and massing, overall design and materials, would be visually incongruous and contrary to the visual amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
  
3. *The proposed development of Houses Numbers 6 and 7 by reason of their scale, mass and bulk and siting adjacent to the 'The Barn', a structure of historic interest, and by reason of its proximity to Riversdale and Riversdale House (a Protected Structure), it is considered that the proposed development would adversely affect the character and setting of this historic ensemble and would be contrary to the provisions of the Dublin City Development Plan. The proposed development would thus be contrary to the proper planning and sustainable development of the area.*

**ABP Ref. 302016-18 (P.A. Reg. Ref. 2510/18):** After DCC decided to grant permission, permission was refused on appeal (December 2019) for partial demolition, repair and extension of the existing dwellinghouse (known as 'The Barn') to now provide a two-storey detached dwellinghouse (circa 389.5 square metres) and all associated site development works. The reason for refusal was as follows:

*It is considered that, by reason of its scale and design, the proposed development would materially and adversely affect the character and setting of Riverdale House, a*



*protected structure and its attendant grounds, and the setting of 'The Barn', a structure of historic interest and would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.*

**ABP Ref. 300812-18 (P.A. Reg Ref 3943/17):** After DCC decided to grant permission, permission was refused on appeal (November 2018) for construction of three number two-storey dwellinghouses comprising one number detached house (circa 210 square metres) and two number semi-detached houses (circa 213 square metres each) and all associated site development works on a site (0.12 ha) largely comprising the eastern portion of the current appeal site. The reasons for refusal were as follows:

- 1. Having regard to its height, scale, bulk and massing, and of its design, which includes substantial pitched gabled roofs and projecting chimneys, it is considered that the proposed development would be visually incongruous and out of character with its surroundings, and in particular would have a detrimental impact on the character and setting of Riversdale House, a protected structure, and its attendant grounds, contrary to the principles set out in the Architectural Heritage Protection Guidelines for Planning Authorities, reissued by the Department of Arts, Heritage and the Gaeltacht in October, 2011 and would not be appropriately respectful of, and sympathetic to, the context and ensemble set by Riversdale House and the other historic structures in the vicinity, namely Riversdale and "The Barn". The proposed development would, therefore, be contrary to these Ministerial Guidelines, would seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.*
- 2. Having regard to the bulk and extent of the proposed development, which comprises three substantially sized houses on a confined site, with minimal separation distances between the proposed detached and semi-detached houses, and between house number 3 and the southern site boundary, and a cramped layout to the front, necessitating the use of a right of way external to*

*the site for necessary traffic manoeuvring movements, it is considered that the proposed development would constitute overdevelopment and would, therefore, be contrary to the proper planning and sustainable development of the area.*

**ABP Ref. PL29S.247870 (PA Reg Ref 3014/16):** After DCC decided to grant permission, permission was refused on appeal (July 2017) for partial demolition, repair and extension of the existing dwelling house (known as The Barn) to provide a two-storey detached dwelling house (circa 424 square metres) with east facing balcony and car port (circa 25 square metres) and construction of two number three-storey detached dwelling houses (circa 443 square metres and circa 446 square metres), all associated site development works. The reasons for refusal were as follows:

- 1. The proposed development of Houses Numbers 2 and 3 by reason of their scale, mass and bulk and the extent of site coverage would be out of character with the established pattern of development in the area. The proximity of House Number 2 to the adjoining property to the north would be overbearing and seriously injure the residential amenities of that property (number 9 Riversdale Avenue) and taken together would represent overdevelopment of the subject site.*
- 2. By reason of the proposed scale of the intervention including partial demolition and extension to "The Barn", a structure of historic interest and by reasons of its proximity to Riversdale and Riversdale House (a Protected Structure), it is considered that the proposed development would adversely affect the character and setting of this ensemble and would also seriously injure the residential amenities of adjoining properties to the west.*

**ABP Ref. 29S.221716 (P.A. Reg Ref 3954/06):** In August 2007, The Board upheld the DCC decision to grant permission for demolition of the Barn and the construction of four new dwellings and gardens around a central hard landscaped courtyard. Condition no. 2 required amendments including the omission of House A; the

retention of the coach house; and alterations to House B. The duration of the permission was extended but it expired in 2017.

The following planning history applies to the adjoining lands to the south:

**ABP Ref. 300487-17 (P.A. Reg. Ref. 3998/17):** In August 2018, The Board upheld the DCC decision to grant permission for two new plastered concrete piers with wrought iron gates and associated site and landscaping works. The erection of the gate piers, and gates is to be across the driveway in front of Riversdale and Riversdale House and at the rear of “The Barn”.

**ABP Ref. PL29S.246746 (PA Reg Ref 2580/16):** In September 2016, The Board upheld the DCC decision to grant permission for new kitchen-dining single storey extension to the south of the existing Riversdale dwelling, new two-storey extension to the side, and refurbishment works to the existing building.

## 5.0 Policy Context

### 5.1. National Planning Framework (NPF)

- 5.1.1. The NPF is the Government’s high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards ‘compact growth’, which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains a number of policy objectives that articulate the delivery of compact urban growth as follows:

NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;

NPO 4 promotes attractive, well-designed liveable communities;

NPO 6 aims to regenerate cities with increased housing and employment;

NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards

NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking

NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.

## **5.2. Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)**

5.2.1. These Guidelines set out target floor areas for a range of different dwelling types, as well as providing guidance on quantitative and qualitative standards.

## **5.3. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)**

5.3.1. This sets out the key planning principles which should guide the assessment of planning applications for development in urban areas.

## **5.4. Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities, May 2021**

5.4.1. These Guidelines identify planning conditions to which planning authorities and the Board must have regard in granting planning permission for new residential development including housing and/or duplex units. This is intended to ensure that own-door housing units and duplex units in lower density housing developments are not bulk-purchased for market rental purposes by commercial institutional investors in a manner that displaces individual purchasers and/or social and affordable housing, including cost rental housing. The application of these conditions applies to all housing developments that include 5 or more houses and/or duplex units.

## 5.5. Architectural Heritage Protection Guidelines for Planning Authorities

- 5.5.1. The 'Architectural Heritage Guidelines', sets out detailed guidance to support planning authorities in their role to protect architectural heritage when a protected structure, a proposed protected structure or the exterior of a building within an ACA is the subject of development proposals. It also guides those carrying out works that would impact on such structures.

## 5.6. Dublin City Development Plan 2016-2022

### Zoning

- 5.6.1. The site is subject to land use zoning 'Z1', the objective for which is "to protect, provide and improve residential amenities". Residential use is a 'permissible use' under this land use zoning.

### Housing Policy

- 5.6.2. The housing policies of Dublin City Council are set out in Chapter 5 of the development plan. The policies which are directly relevant to this appeal case are identified below.

**Policy QH1:** To have regard to the DEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2015) and 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009).

**Policy QH7:** To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

**Policy QH 8:** To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

**Policy QH21:** To ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity, in accordance with the standards for residential accommodation.

**Policy QH22:** To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

### Infill Housing

5.6.3. The development standards concerning infill housing are set out in section 16.10.10 of the development plan. In general, infill housing should comply with all relevant development plan standards for residential development. In certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed. Infill housing should:

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

### Private Open Space

5.6.4. A minimum standard of 10 m<sup>2</sup> of private open space per bedspace will normally be applied, with up to 60-70 m<sup>2</sup> of rear garden area sufficient for houses in the city.

### Public Open Space

5.6.5. For Z1 zoned lands, there is a requirement that 10% of the site area be reserved as public open space. Where the site is too small or inappropriate to fulfil a useful purpose, a financial contribution in lieu will be required.

### Car Parking

5.6.6. The site is located in Parking Area 3 of the city, within which a maximum standard of 1.5 no. car parking space per dwelling applies. Table 16.2 also outlines that 1 cycle

space is required per dwelling, with additional requirements for larger units and visitor parking decided on a case-by-case basis.

### Built Heritage

- 5.6.7. Chapter 11 of the Plan deals with Built Heritage and Culture and section 11.1.4 outlines a strategic approach to protecting and enhancing built heritage based on the existing and ongoing review of Protected Structures, ACA's, Conservation Areas and Conservation Zoning Objective Areas. The site is not located within a designated ACA or Conservation Area and does not contain any Protected Structures. However, Riversdale House (to the south) is a Protected Structure and the River Dodder and adjoining woodland is designated as a 'conservation area'. In summary, relevant policies of the current plan include:

CHC1 Seek the preservation of the built heritage of the city.

CHC2 Ensure that protected structures and their curtilage is protected.

CHC4 Protect the special interest and character of all conservation areas.

- 5.6.8. Section 16.10.17 deals with older buildings of significance which are not protected and supports the retention and re-use of buildings/Structures of historic, architectural, cultural, artistic and/or local interest or buildings which make a positive contribution to the character and identity of streetscapes and the sustainable development of the city.

## **5.7. Environmental Impact Assessment (EIA) – Preliminary Examination**

- 5.7.1. An Environmental Impact Assessment Screening report was not submitted with the application. Class (10)(b) of Schedule 5, Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

- 5.7.2. It is proposed to construct a total of 8 no. dwelling houses which is significantly below the 500-unit threshold noted above. The site has an area of 0.26 ha and is located within an existing built-up area but not in a business district. The site is therefore well below the applicable threshold of 10 ha. The introduction of this residential scheme would have no adverse impact in environmental terms on surrounding land uses.
- 5.7.3. The site is not designated for the protection of the landscape or natural heritage and the proposed development is not likely to adversely affect the integrity of any European site (see section 8 of this report). The proximity of the site to a Protected Structure (Riversdale House) and a Conservation Area (River Dodder) is acknowledged. However, I consider that these issues can be satisfactorily addressed through the normal planning process without the need for EIA.
- 5.7.4. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be minimal.
- 5.7.5. I conclude that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment, and that on preliminary examination, an environmental impact assessment report or screening determination in relation to EIA was not necessary in this case.

## **5.8. Natural Heritage Designations**

- 5.8.1. The South Dublin Bay SAC (site code 000210) and South Dublin Bay and River Tolka SPA (site code 004024), are the nearest Natura sites, located c 5km to the northeast.



## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. Stephen Little & Associates chartered Town Planning and Development Consultants have submitted an appeal on behalf of:

- Aisling Harrison & Bart Casella, Riversdale House, 75 Bushy Park Road
- Geraldine and Derick Breen, 8 Riversdale Avenue, Bushy Park Road
- Cathy Morrin, 9 Riversdale Avenue, Rathgar
- Ann Lynch, Riversdale, 75 Bushy Park Road.

6.1.2. The appeal requests that the Board refuse permission, or, if the Board is minded to grant permission, to revise the proposal by way of conditions. The grounds of appeal can be summarised under the following headings:

#### Planning History

- Although permission was previously granted for a residential development on the site in 2007 (P.A. Reg. Ref 3954/06), Riversdale House was added as a Protected Structure in 2013 and any proposal must be assessed in this new policy context.
- The Board's reasons for refusal under ABP Ref. PL29S.247870 have not been overcome, in particular with regard to site coverage.
- The Board's reasons for refusal under ABP Ref. 300812-18 are substantially applicable. The bulk, scale, and site coverage are considered to have a greater impact than the previously refused application.
- Having regard to the Board's reasons for refusal under ABP Ref. 302016-18, it is submitted that the proposal fails to take account of the impact on Riversdale House, its attendant grounds, and 'The Barn'.
- The proposal is largely the same as that previously refused by DCC under P.A. Reg. Ref. 2976/20. The proposal fails to take account of the impact on Riversdale House, its attendant grounds, and 'The Barn', or the impact on the immediately adjoining residents.

- These decisions confirm and validate the historic interest of the site and the sensitivity of existing character and residential amenity.

#### Site Layout, Character, & Design

- There is an excessive quantum of development, which is not significantly reduced from what was previously refused, and the section of the site running along Riversdale Avenue has no impact on quantum or massing.
- The development is within the curtilage of Riversdale House, a protected structure. The applicant has not provided a strong rationale for the relationship with Riversdale House and the proposal would be out of character with the established pattern of development; the approach view from Riversdale Avenue; and the integrity of 'The Barn'.
- There are concerns about the proximity of house no. 5 to Riversdale House and the potential impacts on adjoining trees; the overbearing impact of terraces at the site entrance; the impact of parking on the setting of the Protected Structure; and the restricted width of the proposed houses.
- The Inspector's report (ABP Ref. 300487-17) stated that it is reasonable to assume that historic curtilage for Riversdale House extends over the entire driveway and enclave occupied by the three existing structures. It is considered that the proposed development will be injurious to the character of Riversdale House and its attendant grounds.
- The Mews development examples cited in the applicant's Design Statement have a different context to the proposed development.

#### Residential Amenity

- The property height is not in keeping with Riversdale House and 1<sup>st</sup> floor windows may be added to house no. 5 which would result in overlooking.
- There will be a substantial loss of light and outlook to the 1<sup>st</sup> floor (south side) windows in no. 9 Riversdale Avenue due to the proximity of house no. 1. The south-facing windows and rear garden would also suffer visual intrusion and overbearing impacts.

- The shadow diagrams show significant overshadowing to the rear of 9 Riversdale Avenue, particularly in the afternoon.
- The revised design of house no. 7 has exacerbated overlooking concerns in relation to Gageby House.
- In the event of a grant of permission, a condition is requested to prevent any additional development to the south of 'The Barn', or to provide a pitched roof on the house units to provide attic space with the effect of creating an additional floor. It is also requested to mitigate overlooking from the south elevation of house 7 and to restrict any height increases to the single storey elements.
- The existing access road must be retained as a 'right of way' and should not be used as a courtyard / public open space.

#### Access and Traffic

- An accompanying letter from Roughan O'Donovan Consulting Engineers outlines traffic and access concerns.
- Concerns are raised about the size and accessibility of the proposed car parking spaces, and the absence of adequate visitor spaces.
- There are concerns about the capacity to accommodate on-street parking and potential congestion on Riversdale Avenue and Bushy Park Road.
- Car parking for house no. 8 would be visually intrusive on 'The Barn'.
- The additional traffic generated will detract from the amenity of properties and would be unsafe.
- The drawings appear to show an increased entrance width. The existing access gates should be retained in situ and refurbished.
- Construction access is unclear and may impact on the existing right of way.
- An adequate turning circle for fire tender access has not been provided and the current proposals to prohibit parking at the end of the cul-de-sac would be difficult to manage/control.

- Proposals for refuse collection are inadequate and would detract from the amenity of existing residents.
- Adequate cycle parking facilities have not been provided.

#### Other matters

- The proposed chimneys are out of character with the area.
- There are concerns regarding the potential impacts on electricity supply.
- There are concerns regarding the potential impacts on water supply.
- There would be visibility between the appeal site and Riversdale House.
- Any works adjoining 14/14A Westbourne Road would require agreement with the property owners.
- The piece of land shown on the site location map as 'in dispute' (outlined in blue) is in fact part of the curtilage of Riversdale House. The proposed development is therefore closer to the Riversdale boundary.

#### Design Amendments

- The appeal includes a report from HKR Architects which includes suggested revisions that would address the appeal concerns. It is supported by a Conservation Assessment prepared by Cathal Crimmins Conservation Architect. Both reports were previously submitted for an earlier application.
- The proposal suggests the accommodation of 3 large family homes (including The Barn) and outlines design parameters for any new development.
- The Board is requested to consider the design amendments if it is minded to grant permission.

6.1.3. Louis Burke Architects & Interior Designers have also submitted an appeal on behalf of Neville Russell, Riversdale Lodge, Bushy Park Road. The grounds of appeal argue that the proposal contradicts a number of objectives in the Development Plan as follows:

- Section 5.3 – The density and layout cannot be considered high quality as it does not provide reasonable levels of daylight and sunlight and does not provide any green open space or communal area.

- 5.5.7. – The proposal does not provide a good mix of houses and the terracing is completely at variance with the pattern of development.
- QH21 – The density and scale does not provide for the needs of family accommodation as there is no level of residential amenity.
- QH22 – The intense density has no regard for the character and scale of existing development.
- CHC8 – To facilitate off-street parking where appropriate site conditions exist, while protecting the special interest and character of Protected Structures and Conservation areas.
- 12.3 – The proposal does not comply with the objectives of Chapter 12 of the Development Plan.
- 12.5.2 – The proposal makes no contribution to the unique identity of this mature neighbourhood and cannot be considered a positive design approach.
- The proposal also contravenes the Building Regulations in that the turning circle at the top of Riversdale Avenue is substantially below width requirements. The appellant will also be challenging the applicant's right of possession of a sizeable part of the turning area, thereby further reducing its available space.

## 6.2. Applicant Response

- 6.2.1. The response states that the proposal provides a design solution which responds positively to the Board's previous decisions. It would provide high quality houses, respecting the amenity of surrounding properties and creating a sensitive infill development for this vacant site. The response to the individual appeals can be summarised as follows:

### Appeal submitted on behalf of Neville Russell

- All houses exceed the relevant size and ceiling height standards; have large windows to the east and west and daylight coming from above; and have been carefully planned to give good privacy and orientation.

- The proposal complies with Development Plan standards and is low density in terms of site coverage, plot ratio, and height.
- A financial contribution in lieu of public open space has been agreed with DCC, and residents would benefit from the existing landscaped strip along Riversdale Avenue and proposed planting to the front of houses and private rear gardens.
- The mix of house types is appropriate for a small scheme.
- The terrace responds to the unique location/context of the site and as such a low scale mews type development works with the typology of the Barn and the larger ensemble including Gageby House and Riversdale House.
- The eastern terrace largely follows the layout of the previously granted permission (ABP Ref PL 29S.221716). The proposals for the Barn would remove the unsightly additions, restore the historic part as a single dwelling, and the new houses beside it would create a courtyard ensemble with architectural language which compliments Gageby House and Riversdale House.
- The appellant does not make it clear how the proposed development does not comply with the objectives of chapter 12 of the Development Plan.
- The design of the houses is in a simple modern idiom, in the same way as the houses on Riversdale Avenue and Riversdale House were designed in the prevailing style of their time.
- The enlarged turning area would be on land owned by the applicant and would be of benefit to the entirety of Riversdale Avenue.

Appeal submitted on behalf of Ashling Harrison & others

- The scheme has been carefully designed to respect surrounding properties and the proposal for 8 houses is an efficient and sustainable use of this vacant site.
- The design has been revised from the previous application (P.A. Reg Ref 2976/20) to address the reasons for refusal and to the benefit of the scheme.

- The strip of land along Riversdale Avenue is part of the site. Whether or not this strip is included, the proposal is low density and complies with Development Plan standards.
- The Architectural Heritage Impact Assessment considers the impact on Riversdale House in detail. It is in separate ownership and is visually separated by Gageby house and existing/proposed planting. A previous report from Robin Mandall (Grade 1 Conservation Architect) limited the curtilage to the area around the Protected Structure and this was accepted by DCC. The Barn is not a protected structure, but its heritage value is recognised and protected. The proposal has little or no actual impact on the protected structure and will respect the building lines and boundaries of adjoining properties.
- The revised design for house 6 will be setback from the view from Riversdale Avenue and will be further softened by landscaping.
- The flat roof approach is driven by aims to reduce the bulk and scale of the houses and to gain additional light.
- The proposals for the Barn would remove the unsightly additions, restore the historic part as a single dwelling, and the new houses beside it would create a cluster of buildings with clearly defined spaces. It would be a positive intervention.
- Adequate protection will be afforded during construction to the trees to the south of house no. 5.
- The low-profile stepped arrangement of the terrace would not be overbearing, and car parking will be screened by landscaping.
- The design examples cited in the application demonstrate how 'deep plan' houses can be designed as high quality, attractive homes.
- The proposed building heights are appropriate and modest in the context of existing and proposed development in the area.
- There will be no overlooking from the side elevation of house no. 5.

- The side elevation windows in no. 9 Riversdale Avenue will have sufficient distance to benefit from a good level of natural light.
- House no. 7 will be adequately distanced and screened from Gageby House and Riversdale House to mitigate any perceived overlooking.
- All parking spaces are of adequate size and will not obstruct the road.
- Visibility from the parking spaces will be no different to any other driveway where the driver needs to proceed with caution.
- The existing turning area will be enlarged on land owned by the applicant and will be sufficient to serve the street.
- Car-parking is in line with Development Plan requirements and landscaping/boundary treatment will restrict overspill parking.
- The proposal will have a negligible impact on existing traffic volumes.
- It is proposed to widen the existing access gate and to provide a separate pedestrian gate as shown on application drawings.
- A Construction Management Plan will be agreed with DCC and access to Gageby House and Riversdale House will be maintained throughout.
- A single bin storage/collection area is proposed and will be screened.
- Bicycle parking spaces can be accommodated for each house.
- The chimney heights will be obscured by the parapet and will contribute to the building skyline.
- The scheme will be subject to applications to the ESB and Irish Water in the normal manner.
- The walls of 'The Barn' are wholly owned by the applicant.
- It is accepted that the area outlined in blue on the site location map is not within the ownership of the applicant.
- The HKR Architects report and the Conservation Report from Cathal Crimmins relate to a different application and should be disregarded.



- A Technical Note is included from AECOM Engineers in response to the items raised in the Rough O'Donovan letter.

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

6.3.1. The Planning Authority has not responded to the grounds of appeal.

### 6.4. **Prescribed Bodies**

6.4.1. No submissions received.

### 6.5. **Observations**

6.5.1. Three observations were received on the appeals. The issues raised in each submission are summarised below.

#### Julia Cullinan & Miriam Kent, 10 Riversdale Avenue

- There is inadequate space for car parking, including visitor parking, which will inevitably lead to further parking and congestion on Riversdale Avenue.
- The existing turning circle is in constant use for parking and the applicant has no alter this to provide an enlarged turning area with no parking.
- The green area adjoining the turning area has been maintained solely by one of the residents (Neville Russell) since 1983.
- There will be road safety hazards as a result of construction traffic and a lack of visibility from the proposed parking spaces.
- The access road is not suitable for construction traffic and the applicant has failed to demonstrate safe manoeuvres for fire tenders and refuse vehicles as a result of not having control over the turning circle.

#### Jim Dowling, Terenure Residents Association

- The proposal represents gross overdevelopment and has no regard for the character of surrounding development.

- The narrow frontage, flat roofs and long chimneys will look ridiculous at this location and may be a hidden intention to exert pressure for an additional storey in the future. It is more suitable to a Mews development in Dublin 4.
- There are concerns about the lack of public open space and the proposal for a financial contribution in lieu is not of any benefit to the development.
- Movement in and out of the car parking spaces is very difficult.
- The inadequate car-parking space will lead to additional parking and congestion on Riversdale Avenue. The bus service on Bushy Park Road will be discontinued when 'Busconnects' is implemented.
- There is a lack of proper cycle parking spaces.
- The absence of an agreed construction management plan is unacceptable.
- The turning circle is too small and signage restricting parking is unlikely to be observed.
- The proposal does not represent any significant change to that previously refused under P.A. Reg. Ref. 2976/20.
- There would be no objection to some development on the site, provided it was of suitable scale and design.

Michael McKenna, 75A Bushy Park Road

- Condition 6(a) of the DCC decision, requiring the agreement of a Construction Management Plan, was applied to a previous permission and the information submitted was devoid of any substantial detail for traffic management or disposal of construction and demolition waste.
- The 'Outline Construction Management Plan' accepts that Riversdale Avenue has restricted width. It also facilitates on-street parking which impede heavy vehicle access and increase risk of damage to the exposed gable of his property.
- The volume and duration of works would risk structural damage to his property as a result of the restricted access capacity and size of construction vehicles. The risk is on two fronts:

- Accidental damage due to turning movements
- Repetitive vibration loading on foundations and superstructure.
- It is hoped that reasonable protection measures would be put in place to protect the property, which should be stipulated by the Board and put in place in accordance with DCC. Otherwise, the proposed development should be refused by the Board.

## 7.0 **Assessment**

### 7.1. **Introduction**

Having inspected the site and examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and having regard to relevant local/national policies and guidance, I consider that the main issues for consideration in this case are as follows:

- Principle of the Development
- Traffic
- Impacts on surrounding properties
- The standard of residential amenity proposed
- Built Heritage and Visual Amenity.

### 7.2. **Principle of the Development**

7.2.1. I note that residential land uses are 'permissible uses' open for consideration under the Z1 land use zoning objective which applies to the site. The vision for residential development in the city is one where a wide range of accommodation is available within sustainable communities where residents are within easy reach of services and facilities. In this case, the subject site is within close proximity to the nearby centres of Terenure, Rathgar, and Rathfarnham, and benefits from a wide range of associated services and facilities.

7.2.2. In terms of the quantum of development proposed and site development standards, I note the debate regarding the actual size of the appeal site. In this regard I would agree that the narrow strip along Riversdale Avenue has only an incidental

relationship with the main site and should be omitted for the purpose of calculating site standards. The proposed 8 houses on a stated (net) site area of 0.1997 hectares would result in a density of c. 40 units per hectare, which would be consistent with the Sustainable Residential Development Guidelines recommendations for 'outer suburban/greenfield sites' (35-50 units per hectare), albeit that the appeal site is of an 'infill' nature where higher densities are encouraged.

7.2.3. The proposed development would result in a plot ratio of c. 0.5, which would be on the lower extreme of Development Plan recommendations for Z1 areas (i.e. 0.5 to 2.0). The proposed site coverage would be significantly less than the 45-60% Development Plan standard.

7.2.4. Having regard to the foregoing, I am satisfied that the proposed development is consistent with the Z1 zoning for the site and that the proposed quantum of development would not be excessive having regard to indicative site development standards. However, I acknowledge that the scale and design of the proposed development must be considered further in terms of qualitative standards and its impact on existing properties, amenities, and infrastructure.

### 7.3. **Traffic**

7.3.1. In considering the operational traffic movements which would arise on foot of the proposed development, I note that one in-curtilage parking space is proposed for each dwelling. This is consistent with the maximum Development Plan standard (1.5 per dwelling) and is consistent with the existing arrangements for several properties along Riversdale Avenue. The proposed dwellings are not exceptionally large, and I do not consider that additional parking is warranted at this accessible location. The proposed spaces are adequately sized and will not interfere with the adjoining footpath/road. In terms of safety and visibility of movement in and out of the spaces, I would again consider that the proposed arrangements are typical of such residential areas. I consider that traffic volume and speed will be limited on this short cul-de-sac road, and I do not consider that the proposed movements will interfere with the safety of vehicular and pedestrian/vulnerable traffic.

7.3.2. The applicant has proposed to enlarge the existing turning area at the end of Riversdale Avenue. I note that concerns have been raised about the ownership of the enlarged area, but I am satisfied that the applicant has provided sufficient

evidence of legal interest for the purposes of the planning application and decision. In any case, this is a matter to be resolved between the parties, having regard to the provisions of section 34 (13) of the Planning and Development Act 2000 (as amended). As confirmed by the DCC Transportation Planning Division, I am satisfied that the enlarged turning area will adequately cater for servicing and emergency vehicles as shown in the 'autotrack analysis'. I also consider that it will provide improved circulation arrangements for the overall street and there is no indication that there would be any significant impediment to the current arrangements for pedestrian access or bin storage within the existing turning area.

- 7.3.3. I note the appeal concerns regarding the capacity of the road to accommodate additional traffic and overspill parking as a result of the proposed development. At the time of my inspection, I noted that there was ample capacity for on-street parking along Riversdale Avenue and traffic volumes were extremely low. The road is relatively short and there is good visibility to identify any potential conflict of movement along the route. The existing turning area would also provide an effective 'passing bay' for any traffic exiting the proposed development, which would help to minimise any obstruction to traffic flows.
- 7.3.4. In terms of pedestrian safety, I note that an existing footpath extends along the length of Riversdale Avenue, and this will be retained. A new pedestrian gate will be provided at the site entrance and a new footpath will extend for the length of the existing road through the site. I am satisfied that the proposed pedestrian access arrangements would be acceptable having regard to the limited number of existing and proposed dwellings. Cycle parking has been accommodated for units 1-5 and I am satisfied that proposals for units 6-8 could be agreed by condition.
- 7.3.5. In my opinion, the additional traffic movements which would arise on foot of this small-scale, infill residential scheme would have no significant impact on the operation of the existing road network. I note that the Transportation Planning Division of Dublin City Council had no objection to the proposed development subject to conditions. Having regard to the foregoing, I am satisfied that no unacceptable vehicular traffic impacts would arise during the operational phase of the proposed development.

- 7.3.6. It is proposed that construction traffic will enter the site through Riversdale Avenue. The applicant's Outline Construction Management Plan confirms that a Traffic Management Plan will be agreed with DCC and that access to Gageby House and Riversdale House will be retained. The enlarged turning area will facilitate construction vehicles and operative parking will be accommodated on site in an area adjoining The Barn. I would accept that traffic management proposals can only reasonably be finalised when a contractor is appointed, and I am satisfied that this can be agreed through conditions.
- 7.3.7. I also note the appeal concerns regarding potential structural damage as a result of construction traffic, particularly at the junction with Bushy Park Road. However, I consider that this junction is of adequate width, and this will be maintained by the double yellow lines on each side of Riversdale Avenue for a significant length south of the junction. I do not consider that there is a reasonable basis to conclude that there would be structural damage to any of the adjoining properties as a result of the construction traffic movements. In any case, this would be a civil matter for resolution between the relevant parties.
- 7.3.8. In conclusion, I consider that the proposed access arrangements would be acceptable in terms of the safety and convenience of vehicular traffic and the movement of pedestrians and other vulnerable road users. Accordingly, I have no objection in relation to the traffic impacts of the proposed development.

#### **7.4. Impacts on surrounding properties**

##### Construction disturbance

- 7.4.1. I acknowledge that the potential for some level of disturbance to surrounding residents during the construction phase will always arise in urban environments. However, the subject site and adjoining lands are zoned lands located in a suburban area where temporary construction disturbance is common and should be accommodated. In this regard I note that the outline Construction Management Plan identifies measures to avoid nuisance impacts arising to neighbouring residents. The final details of this plan and a construction traffic management plan will be subject to agreement with the Planning Authority prior to commencement of development, and as such, I am satisfied that these matters can be satisfactorily addressed by way of planning condition.

## Daylight and Sunlight

- 7.4.2. The Development Plan highlights the value of daylight and sunlight and states that development 'shall be guided by the principles of' the BRE guide 'Site Layout Planning for Daylight and Sunlight'. At the outset I would highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application, with paragraph 1.6 stating that 'Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design'. It notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.
- 7.4.3. The application Design Statement includes a 'Shadow Study' (Appendix 1) which assesses the impact of the proposed development on 21<sup>st</sup> March, 21<sup>st</sup> June, 21<sup>st</sup> September, and 21<sup>st</sup> December. I have considered this study and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011). I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the third-party concerns about daylight and sunlight impacts.
- 7.4.4. With regard to '*light from the sky*', Section 2.2.4 of the BRE guide outlines that loss of light to existing windows need not be analysed if the angle to the horizontal subtended by the new development at the centre of the existing window is less than 25°. If so, then it is unlikely to have a substantial effect on the diffuse skylight enjoyed by the existing building.
- 7.4.5. In this case, the Laurelton dwellings are well setback to the east and the limited height of the proposed development would not subtend an angle greater than 25° when measured from the existing windows. To the north, I note the presence of 1<sup>st</sup> floor windows in the side elevation of No. 9 Riversdale Avenue. The applicant's response to the appeal shows the relationship at this interface and demonstrates a 45° angle from the sill of the existing window. I have also calculated that the angle subtended from the centre of the window would be c. 20°, which is acceptable as per BRE standards.

- 7.4.6. To the south, the proposed development does not directly oppose any proximate windows and Gageby House would retain a generally unobstructed outlook to the north. To the west, only the rear windows of 14/14A Westbourne would directly oppose the proposed development, more specifically The Barn. However, there will be no significant increase to the height or scale of The Barn and, accordingly, there will be no significant impact on any existing windows to the west.
- 7.4.7. In relation to the impact of '*sunlight*' on adjoining windows, section 3.2 of the BRE Guide outlines that obstruction to sunlight may become an issue if a living room of an existing dwelling has a main window facing within 90° of due south, and any part of a new development subtends an angle of more than 25° to the horizontal measured from the centre of the window in a vertical section perpendicular to the window.
- 7.4.8. The rear windows of 14/14A Westbourne face east, while those of the Laurelton properties face west. While some of these windows may face marginally within 90° of due south, they are well distanced, and the height of the proposed development will not significantly impact on sunlight levels having regard to the conditions and angles of obstruction as outlined in paragraphs 7.4.5 and 7.4.6 above. The south-facing windows on no. 9 are not 'living' room windows and in any case the proposed development would not subtend more than 25° from these windows. Accordingly, I am satisfied that there will be no significant impacts on sunlight levels to existing windows and further assessment is not required.
- 7.4.9. In relation to adequate sunlight throughout the year for adjoining gardens and amenity spaces, the BRE guide recommends that at least half of such spaces should receive at least 2 hours of sunshine on 21st March. If as a result of new development this cannot be met, and the area which can comply is less than 0.8 times its former value, then loss of sunlight is likely to be noticeable.
- 7.4.10. The applicant's shadow study covers the 21<sup>st</sup> March. It is illustrative only and does not quantify the proportion of the adjoining spaces that would receive sunlight or for how long. I also note that it is based on the original scheme design and has not been updated to reflect the revised design and layout for houses 6 & 7.
- 7.4.11. The applicant's study indicates that no. 14/14A Westbourne is affected by shade in the early morning (9am) but that this is not significantly exacerbated by the proposed development. No. 12 Westbourne would appear to be the only property affected by



house no.'s 6 & 7 and I again acknowledge that the revised design is not reflected in the shadow study. The study is, however, still indicative of the potential impact, which would be limited the early morning and to the eastern side of the large garden serving no. 12. Having regard to the BRE standards, I do not consider that the proposed development would unacceptably impact on the garden of no. 12.

7.4.12. The appeal contains specific concerns about the impact on no. 9 Riversdale Avenue to the north of the site. However, while there would be additional overshadowing in the afternoon period, I note that at least half of the space would remain in sunlight during the 3-hour period between 9am to noon. This would comply with BRE recommendations. The west facing gardens in Laurelton receive good levels of sunlight and would not be significantly affected by the proposed development. Similarly, the sunlight levels to the gardens serving Riversdale House and Gageby House to the south of the development would not be significantly affected by the development.

7.4.13. In conclusion on the issues of daylight and sunlight, I again highlight the advisory, non-mandatory nature of the BRE Guide in this instance. I have assessed the potential daylight/sunlight impacts to adjoining windows and the sunlight impacts on adjoining gardens/amenity spaces. I have limited the assessment to the closest adjoining properties to represent a worst-case scenario, and I have considered the application documents and the 3<sup>rd</sup> party concerns in this regard. Having regard to the details outlined in my assessment, I am satisfied that the proposed development will not result in any unacceptable daylight/sunlight impacts for neighbouring properties.

#### Overlooking

7.4.14. Section 16.10.2 of the Development Plan recognises that traditionally a separation of about 22 m was sought between the rear of 2-storey dwellings and that this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. It states that careful positioning and detailed design of opposing windows can prevent overlooking with shorter back-to-back distances.

7.4.15. In relation to the Laurelton properties to the east, the 1<sup>st</sup> floor level to the rear of houses 1-5 will be setback c. 28 metres, which would comfortably exceed the Development Plan standard. Houses 1-5 do not include any north or south-facing

windows and the only north-facing windows in units 6-7 would overlook the 'public' domain. There is a small north-facing window serving a staircase in The Barn, which would not result in any significant overlooking impacts.

- 7.4.16. The west-facing windows in units 1-5 are setback at least 25m from any existing properties. Unit 8 would not include any west-facing windows, while those in units 6-7 would serve bathrooms only and would not result in significant overlooking impacts. I note that concerns have been raised about overlooking of Gageby House to the south. And while there are south-facing 1<sup>st</sup> floor bedroom windows in unit 7, it should be noted that they are c. 17m from the opposing boundary and c. 22m from Gageby House itself, the opposing western portion of which does not contain 1<sup>st</sup> floor windows. Under these conditions, I do not consider that there would be any unacceptable overlooking impacts on Gageby House.

#### Overbearing

- 7.4.17. Overbearing impacts are largely generated as a result of the height and scale of a proposed development and its proximity to surrounding properties. Through this assessment I have outlined that the proposed development is not of significant height and that it is generously separated from surrounding properties. In such circumstances and having regard to the scale and character of existing development, I do not consider that the proposed development would have any unacceptable overbearing impacts on any surrounding properties.

#### Conclusion

- 7.4.18. Having regard to the foregoing, I do not consider that the proposed development would detract from the residential amenities of surrounding properties in any significant or unacceptable way. Accordingly, I have no objections in this regard.

### **7.5. Standard of residential amenity proposed**

- 7.5.1. The scheme proposes a mix of 5 no. 3-bed houses and 3 no. 2-bed houses. I consider this to be an acceptable mix of house types given the limited size of the scheme. In terms of social housing provision, I acknowledge the changes which have arisen to Part V of the Planning and Development Act, 2000 (as amended) by the Affordable Housing Act, 2021. Notwithstanding the foregoing, I note that a Social Housing Exemption Certificate is included on the appeal file (Decision Order P2298

applies) which was granted by DCC under section 97 of the 2000 Act. As per s. 97 (3) of the Act, where the planning authority grants a certificate, section 96 shall not apply to a grant of permission in respect of the development concerned. Accordingly, a Part V condition shall not apply in the event of a grant of permission

- 7.5.2. All the proposed 2 & 3-bedroom units comfortably exceed the target gross floor areas for dwellings as set out in the Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities (2007). I am also satisfied that the proposed houses contain adequate space in terms of individual/aggregate living areas, individual/aggregate bedroom areas, and storage space.
- 7.5.3. The design and layout of the proposed dwellings incorporates large openings and an orientation which seeks to benefit from daylight and sunlight from the east, west and south. The applicant's Design Statement includes a 'Daylight Study' for houses 1-5, those being the houses for which DCC expressed daylight concerns in a recent refusal (P.A. Reg Ref. 2976/20). The study has been carried out with reference to the BRE Guide and the BS Code of Practice for Daylight (BS 8206-2), which outlines the minimum Average Daylight Factor (ADF) for living rooms (1.5%), kitchens (2%), and bedrooms (1%). The study shows that the proposed values for the ground floor rooms would significantly exceed the standards, with the study room being 2.3%, the living/dining room 3.2%, and the kitchen 5.3%.
- 7.5.4. A daylight/sunlight assessment has not been carried out for the remainder of the units and this is not a policy requirement. However, I consider that the design and layout of the proposed units will ensure a satisfactory level of ventilation, daylight, and sunlight for the prospective occupants.
- 7.5.5. The proposed private open space garden areas for all units comply with the Development Plan standard of 10m<sup>2</sup> per bedspace. It is noted that the space for unit 6 is quite limited at 36m<sup>2</sup>, but all other spaces exceed 50m<sup>2</sup> and some significantly so. None of the gardens are north-facing and so they will benefit from good levels of sunlight. Overall, I consider that the standard of private open space is acceptable and that the limited area for unit 6 will be adequately compensated given that the gross internal floor area (101.6m<sup>2</sup>) significantly exceeds the standard as per Quality Housing for Sustainable Communities (70m<sup>2</sup>).

- 7.5.6. I note that no public open space is proposed in this instance, which I consider to be reasonable based on the site restrictions including its location at the end of a cul-de-sac; its limited size; the built heritage considerations; and the route of the access road through the site. Under these conditions I would accept that it would be difficult to achieve a quality useable public open space. The development plan and the Dublin City Council Development Contribution Scheme 2020-2023 allow for the payment of a financial contribution in lieu of public open spaces in such instances, and I note that a condition in this regard (No. 3) has been attached to the Planning Authority's Notification of the Decision to Grant Permission. I consider this approach to be reasonable in the circumstances, although I do not consider that a separate condition is required given that the issue of open space is covered in the section 48 scheme.
- 7.5.7. A communal waste storage facility is proposed near the entrance to the site. It is easily accessible to all units and the proposed location is convenient for the collection of waste receptacles when appropriate.
- 7.5.8. In conclusion, I am satisfied that the proposed development would provide an acceptable level of residential amenity for the prospective occupants, both in terms of internal floorspace and external amenity space and facilities. Accordingly, I have no objections in this regard.

## **7.6. Built Heritage and Visual Amenity**

- 7.6.1. In the wider context, the site is located within a largely suburban, residential area to the north of the River Dodder. The area contains relatively modern housing with a wide variety of scale and character. This includes the residential schemes adjoining the site i.e. 'Laurelton' (to the east), Westbourne Road (to the west), and Riversdale Avenue (to the north). Therefore, in the absence of any firmly established character of development, I consider that the wider site context is generally quite robust in terms of its capacity to absorb new development.
- 7.6.2. Further south of the site. I acknowledge the designation of the River Dodder as a 'conservation area' and the policies of the Development Plan which seek to protect the character of such areas. However, I am satisfied that the proposed development is adequately separated from the 'conservation area' and will not significantly impact upon its character.

- 7.6.3. Therefore, consistent with the previous Board decisions, the key consideration for visual amenity and built heritage is the impact of the proposed development on Riversdale House and its setting, including the ensemble of buildings formed by The Barn and Gageby House.
- 7.6.4. It must be acknowledged that the site itself is quite concealed given its location at the end of a cul-de-sac. It is also well screened by surrounding development and tree cover. Therefore, I consider that the impacts on Riversdale House are quite localised and largely detached from the public domain.
- 7.6.5. On the approach to the site from Riversdale Avenue, it should be noted that there is no view of Riversdale House to the rear (south) of the site. In fact, there is no prominent view of any of the buildings given that they are screened by dense vegetation, albeit that this view would be altered in winter months. Even within the site itself, views of and between the existing buildings are largely screened by existing development and vegetation. From the northern end of the site, the 2-storey 'Barn' is screened by its modern single-storey extension, while Gageby House and Riversdale House are largely screened by dense tree cover. Gageby House itself is not a protected structure and it provides further screening/separation between the appeal site and Riversdale House. Along the access road, there is also a vehicular entrance gate and piers between Gageby House and Riversdale House, while a further entrance gate and piers has been permitted on the boundary between the appeal site and the entrance to Gageby House.
- 7.6.6. From the details available, including the applicant's Architectural Heritage Impact Assessment, it is clear that the appeal site was previously part of the grounds associated with Riversdale House. However, it is also clear that those grounds have been subject to significant change and, as per the details outlined in the preceding paragraph, the appeal site is now significantly detached from Riversdale House.
- 7.6.7. Chapter 13 of the Architectural Heritage Guidelines deals with the issue of 'Curtilage and Attendant Grounds' and acknowledges that the determination of such areas can be influenced by many factors. The Guidelines recommend that these matters should be clarified at the time of inclusion on the Record of Protected Structures (RPS) or through a 'declaration' under section 57 of the Act. In this case, the RPS simply describes the protected structure as 'Riversdale House – original early 19<sup>th</sup>

century house'. I note the applicant's reference to a report by Robin Mandal recommending inclusion of the property on the RPS and commenting on the extent of its curtilage. However, it is not clear to what extent, if any, the comments regarding curtilage were formally adopted by the planning authority. Similarly, it does not appear that the extent of curtilage / attendant grounds has been clarified by a section 57 declaration.

- 7.6.8. The appeal process is not the appropriate forum to determine the nature or extent of the Protected Structure. However, what is clear is that the original Riversdale House is protected and that it has a historical relationship with the other elements of built heritage at this location i.e. Gageby House, The Barn, and the entrance gates. And regardless of whether these other structures are protected or not, I consider that the impact of the development must be considered as outlined in section 16.10.17 of the Development Plan.
- 7.6.9. With regard to impacts on The Barn, I would accept that the single storey extensions are modern additions of no architectural or historical significance, and I would have no objection to their demolition. I would also accept that the original barn building has been significantly altered with the outer stone walls being the only significant remaining elements. The modern finishes to these walls will be removed to reveal the original stone outbuilding. The existing openings will be retained and there will be minimal loss of the historic fabric of the outer walls. All modern construction will also be removed, and the roof will be replaced by a similar but contemporary version. I am satisfied that these alterations are consistent with good conservation practice and that the proposal would not significantly detract from the character of the Barn.
- 7.6.10. As well as the works to the barn building itself, it is important to ensure that the design and layout of surrounding development respects the historic relationship between the larger ensemble of buildings. The applicant's further information response involved significant improvements in this regard. The design for house 7 has been reorientated to face south, thereby providing an appropriate sense of enclosure and a courtyard effect in the area between the Barn and Gageby House. The height, scale and elevations for house no. 7 would compliment those of the Barn, thereby creating a contemporary interpretation of an informal cluster of outbuildings, which I consider to be an appropriate approach within the overall context and setting of the protected structure.

- 7.6.11. Regarding the proposed terrace of units 1-5, I note that it would be of a low height compared to surrounding development and previously refused applications. It also incorporates 2 significant setbacks to the building line and planted trellises to reduce the overall impact of its scale and massing. Compared to the one scheme previously permitted by the Board (ABP Ref. 29S.221716), the current proposal has a lower height, while the proposed form and footprint is similar in extent. It has been designed as a 'mews' style development and the applicant has demonstrated that the proposed terrace frontage reflects a similar arrangement to that formed by the Gageby House / Riversdale House ensemble.
- 7.6.12. The proposed terrace is at least 30 metres from Riversdale House at its closest point. And as previously outlined, it is further separated by significant tree cover, Gageby House, and existing / permitted vehicular gates. There is a large garden area to the front (east) of Riversdale House, but any views of the proposed development would also be screened in this area by dense tree cover to the south of house no. 5. Having regard to the foregoing, I consider that there are very limited visual or functional relationships between the proposed development and Riversdale House, and I am satisfied that the current proposal is adequately separated and is appropriately designed so that it would not detract from the special interest, integrity, or setting of the protected structure.
- 7.6.13. Regarding the visual impact from Riversdale Avenue, I consider that the terrace is largely setback so that mainly only house no.1 would be visible in the context with no.'s 8 & 9 Riversdale Avenue. The terrace would not appear to be of excessive height or scale. I acknowledge that it would be of a different contemporary character, but I consider that this is appropriate and can be absorbed given the significant variety of architectural styles in the area. Houses 6 & 7 will be visible to the front of the Barn when viewed from Riversdale Avenue. However, as previously outlined, the Barn is not currently visible from this position, and I am satisfied that the proposed landscaping and the design of houses 6 & 7 will provide an appropriate aspect to both the Barn (to the south) and Riversdale Avenue (to the north).
- 7.6.14. I note that concerns have been raised about the height of the proposed chimneys. However, while they do appear prominent in the elevation drawings submitted, I am satisfied that when viewed in perspective their height will be largely screened by the roof parapets and the chimneys will not appear excessive in height.

- 7.6.15. Concerns have also been raised regarding the potential damage of existing trees to the south of house no. 5. In this regard, I note that a separation distance ranging from 1.5m to 2.6m will be left along the southern site boundary. Furthermore, the 'area in dispute' to the south of the site boundary provide a further buffer for the existing vegetation. The applicant does not now appear to contest the 'area in dispute' and has confirmed that these trees will be protected during the construction phase. I consider that this is acceptable subject to conditions.
- 7.6.16. The applicant has confirmed that it is proposed to widen the existing access gate and to provide an additional separate pedestrian gate as shown on drawings APA 04 and APA 09. I acknowledge that the gates are of architectural heritage value but the precise details of their origins and relationship with the protected structure are not clear. In any case, I am of the opinion that that the relationship has been compromised by the other existing and permitted gates closer to Riversdale House. The full extent of alterations to historic fabric is not clear from drawings APA 04 and APA 09, although APA 09 appears to indicate that the existing gates would be largely retained. I would consider this to be an acceptable approach, subject to the agreement of details with the planning authority.
- 7.6.17. In conclusion, I acknowledge the historic context of the area and the planning history of the appeal site. However, I consider that the site context has been subject to significant change and that there is only limited visual or functional relationship between the appeal site and Riversdale House. The proposed development would facilitate a welcome renovation of the historic barn and the design and layout of houses 6 & 7 would establish a suitable setting for the barn and its relationship with the larger ensemble of buildings to the south. The proposed terrace of units 1-5 is similar in scale and form to that previously permitted by the Board. And while it is contemporary in character, I consider that it would provide an appropriate transition from Riversdale Avenue and would not detract from the character or setting of Riversdale House as a protected structure. Accordingly, I would have no objections on grounds of built heritage or visual amenity.

## 7.7. Other issues

- 7.7.1. I acknowledge that concerns have been raised about boundary issues and the legal consent of the applicant to carry out certain elements of the development. These



include the southern boundary with Riversdale House garden; the barn boundary with Westbourne Road properties; the right of way through the site; and the enlarged turning area at the end of the cul-de-sac. In this regard, I am satisfied that the applicant has provided sufficient evidence of legal interest for the purposes of the planning application and decision. In any case, any such legal dispute would be a matter to be resolved between the parties, having regard to the provisions of section 34 (13) of the Planning and Development Act 2000 (as amended).

- 7.7.2. Concerns have also been raised about the impact of the development on existing infrastructure, including water supply, drainage and electricity. Given the limited scale of the development, I am satisfied that the impact on the capacity of these utilities will be minimal. The connection applications to the relevant utility operators will facilitate the protection of capacity where necessary, as is normal in the case of planning applications.
- 7.7.3. I note some suggestions contained in the appeal submissions regarding potential future alterations to the units, including additional floors and the insertion of additional windows. However, the appeal must be judged on the basis of the proposals currently submitted and any permission would state this by condition. Any such future alterations would need to be the subject of a separate permission or enforcement investigation by the planning authority. Furthermore, I have considered the suggested design amendments contained within the appeal, but I do not consider that they are necessary having regard to the contents of my assessment.
- 7.7.4. The 'Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities' (May 2021) identify planning conditions to which planning authorities and the Board must have regard in granting planning permission for new residential development including housing and/or duplex units (5 or more units). This is intended to prevent the bulk-purchase for market rental purposes by commercial institutional investors. The proposed development includes 8 no. dwelling houses, and as such, I consider that a condition restricting the occupation of the units to individual purchasers should be attached if planning permission is granted by the Board.
- 7.7.5. Given the extent of vegetation and vacant structures to be removed, I consider that a suitable condition should be included regarding the protection of bats.

## 8.0 Appropriate Assessment – Screening

- 8.1.1. The South Dublin Bay SAC (site code 000210) and South Dublin Bay and River Tolka SPA (site code 004024), are the nearest Natura sites, located c 5km to the northeast. There are a number of other Natura 2000 sites in the wider Dublin Bay area.
- 8.1.2. In terms of potential pathways, I note that the River Dodder flows to the south of the subject site and enters Dublin Bay at Ringsend. It is not proposed to discharge any emissions to the Dodder and therefore any potential for impact is limited to construction stage run-off/emissions. However, the appeal site is approximately 75 metres from the river and, subject to standard construction measures, I do not consider that there is any potential for impacting on the water quality of the river. There would be less still potential for downstream water quality impacts on Natura 2000 sites given the significant separation distance and hydrological buffer that exists.
- 8.1.3. It is proposed to connect the proposed development to the public water supply and the combined surface water/wastewater drainage system. Given the limited scale of the proposed development, I consider that the effects on this infrastructure would be minimal and, accordingly, I do not consider that there would be any potential for indirect effects on any associated Natura 2000 sites.
- 8.1.4. Therefore, having regard to the nature and scale of the proposed development within a serviced urban area and the separation distance to the nearest European sites, 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.

## 9.0 Recommendation

Having regard to the above assessment, and based on the following reasons and considerations, it is recommended that permission be granted subject to conditions

## 10.0 Reasons and Considerations

Having regard to the pattern and character of existing development in the area, the design and scale of the proposed development, the planning history of the site, and the provisions of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the zoning objective for the site, would not detract from the visual amenity or built heritage of the area, including Riversdale House (a protected structure), would provide an acceptable standard of residential amenity for the prospective residents, would not seriously injure the residential amenity of surrounding properties, and would not endanger public safety or convenience by reason of traffic generation or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 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 to the planning authority on the 27<sup>th</sup> day of April, 2021, and the 16<sup>th</sup> day of June, 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 interests of clarity.

2. At least one dedicated cycle storage space shall be provided for each house. Drawings and details of same shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of sustainable transportation.

3. The proposed alterations to the existing vehicular gate access shall include the retention of the existing wrought iron historic fabric. Drawings and details of same shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In order to protect the historic fabric of built heritage.

4. The existing trees and hedges to the south side of the southern site boundary shall be retained and protected from damage during construction. An accurate survey shall be carried out by an arborist or landscape architect and shall show the location of each tree / hedgerow, together with details of the species, height, girth, crown spread and condition. The survey and measures for the protection of the trees/hedges shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** To facilitate the identification and subsequent protection of trees, in the interest of visual amenity and protecting the setting of Riversdale House (protected structure).

5. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat

populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

**Reason:** In the interest of wildlife protection.

6. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

**Reason:** In the interests of public safety.

7. All service cables associated with the proposed development (such as electrical, telecommunications, and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

8. All of the in-curtilage car parking spaces serving the residential units shall be provided with electric connections to the exterior of the houses to allow for the provisions of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of sustainable transportation.

9. 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 the construction access, traffic management arrangements, fuel and plant storage, and noise and dust management measures.

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

10. 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 interests of sustainable waste management

11. 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.

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

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

13. 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.

14. The internal road network serving the proposed development shall comply with the detailed standards of the planning authority for such road works. Any alterations to the public road shall be in accordance with the requirements of the planning authority and where required, all repairs to the public road and services shall be carried out to the satisfaction of the planning authority at the applicant's expense.

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

15. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility.

16. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

17. The management and maintenance of the proposed access road following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for its future maintenance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

18. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to



the satisfaction of the planning authority that it has it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

19. 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.

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Stephen Ward  
Senior Planning Inspector

2nd August 2022