



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311091-21

<b>Development</b>	Demolition of single storey extension and all sheds on site; construction of five duplex apartments with terraces/balconies over two and three floors and all site works.
<b>Location</b>	27/28 Sandycove Road, Dun Laoghaire, Co. Dublin, A96KD53
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D21A/0459
<b>Applicant(s)</b>	Hannahmay Limited
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Refused Permission
<b>Type of Appeal</b>	First Party Appeal
<b>Appellant(s)</b>	Hannahmay Limited
<b>Observer(s)</b>	Seán Burke Thomas Cook Sandycove Tennis & Squash Club
<b>Date of Site Inspection</b>	9 <sup>th</sup> March 2022
<b>Inspector</b>	Susan Clarke

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## **1.0 Site Location and Description**

- 1.1. The site (measuring 0.05ha) is located at No. 27/28 Sandycove Road, which runs parallel to the coast and into the centre of the village of Dun Laoghaire at George's Street. It comprises a 2 storey terrace building with single storey extensions to the rear.
- 1.2. The rear of the site is accessed off a laneway to the east of the premises, which is connected to Sandycove Road. The laneway entrance is narrow, approximately 3 metres in width and is defined by structures associated with adjacent property and by road markings. It provides access to an outdoor dining area to the rear of the subject site, as well as vehicular and pedestrian access to a number of other commercial and residential properties. The laneway adjoins lands which are reserved as a parking area in association with Tara Hall guest house (No. 24 Sandycove Road). Sandycove Tennis and Squash Club is located at the southern end of the laneway.
- 1.3. The property accommodates a two storey, redbrick fronted commercial unit currently in use as retail/restaurant, but formerly a large furniture auctioneers premises (Buckley Galleries). To the rear of the original premises there is a large single storey extension, and a number of smaller outbuildings. There is a single storey shed along the southern boundary of the site. The majority of the site is covered with the exception of a small area in the southeast corner, which would appear to be used for outdoor dining.
- 1.4. Development in the vicinity comprises two storey period type residential properties. To the east and west are two storey dwellings setback from the front building line of the subject site, which itself protrudes out to the public footpath on Sandycove Road. Parking is restricted on the southern side of Sandycove Road due to the presence of double yellow lines. On street parking is available on the northern side of the street.

## **2.0 Proposed Development**

- 2.1. The proposed development consists of:
  - Demolition of single storey rear extension and all sheds/outbuildings to the rear of the site,
  - Change of use from auctioneers rooms at ground floor level and mezzanine level to Class 1 or Class 2 (157 sq m),

- Construction of a part two storey/part three storey extension to the original premises to accommodate five duplex apartments including terraces/balconies,
- Provision of three undercroft car parking spaces and ten bicycle spaces, and
- Associated site works.

As part of the First Party Appeal, the Appellant has proposed the following amendments to the original scheme:

1. Omission of the three undercroft car parking spaces,
2. Redesign of Apartment No. 1 from a three storey unit to a two storey unit (i.e. the Unit replaces the proposed undercroft car parking provision), and
3. The Second Floor balcony will be setback a further 1.5m from the northern elevation along Sandycove Road and the associated balustrade will be constructed with glass.

The unit types and sizes as stated on the submitted drawings<sup>1</sup> are outlined below:

<b><u>Original Scheme</u></b>		
<b>Unit 1</b>	2Bed/4Person	<b>100.7sq m</b>
Unit 2	2Bed/3Person	71 sq m
Unit 3	2Bed/3Person	72 sq m
Unit 4	2Bed/3Person	70 sq m
Unit 5	3Bed/5Person	108 sq m/116.6 sqm <sup>2</sup>
<b><u>Appeal Scheme</u></b>		
<b>Unit 1</b>	2Bed/3Person	<b>71 sq m</b>
Unit 2	2Bed/3Person	71 sq m
Unit 3	2Bed/3Person	72 sq m
Unit 4	2Bed/3Person	70 sq m
Unit 5	3Bed/5Person	108 sq m/116.6 sqm

Three of the units (1-3) have their own entrances at Ground Floor Level from a mid-site yard that fronts onto the laneway. Unit 4 is accessed via a stairway from the mid-yard area. Unit 5 is accessed directly from the front of the site on Sandycove Road.

<sup>1</sup> I note that there are inconsistencies between floor areas referenced on the schedule of accommodation submitted with the application and those stated on the drawings.

<sup>2</sup> I note that the drawings submitted to the Local Authority and as part of the First Party Appeal reference two separate figures for the total floor area of Unit 5 (108 sq m and 116.6 sqm).

Each unit has its own private open space area in the form of a patio or terrace. There is no communal or public open space proposed as part of the scheme. The proposed building materials include a pre-coloured render finish and translucent glass blocks to the northern elevation on Sandycove Road, while the side elevations largely comprise of brick and translucent glass blocks.

Both the original scheme submitted to the Planning Authority and the amended scheme submitted with the First Party Appeal are assessed in this Report.

## **2.2. Documentation Submitted with Planning Application**

In addition to a Planning Application Form and Statutory Notices, the application comprised supporting documents (in association with architectural and engineering drawings) including a Planning Statement (not dated), Design Report, which includes a shadow analysis (dated 15<sup>th</sup> May 2021), Engineering Services Report (dated April 2021) and an Outline Construction Management Plan (dated April 2021).

## **3.0 Planning Authority Decision**

### **3.1. Decision**

A Notification of Decision to Refuse Permission was issued on 15<sup>th</sup> July 2021 for two reasons:

- 1. Having regard to the restricted nature of the subject site, and to the layout, height, density, design and the under provision of communal space, it is considered that the proposals would represent over-development of the site. It is also considered that the proposed second floor roof addition over existing, the ground floor, front timber screen, and the large rear extensions, by reason of their design, layout, height, and bulk and scale, would be incongruous, discordant, overbearing and visually obtrusive when viewed from the surrounding properties and streetscapes, and would have undue overshadowing impact on the property to the north side. The proposed development would detract from the visual amenity of the area, would provide a poor level of amenity for future residents, and would set a poor precedent for similar type development in the area. The proposed development would, therefore, seriously injure the amenities and depreciate the value of property in*

*the vicinity and be contrary to the proper planning and sustainable development of the area.*

2. *Having regard to the location and layout of the site and the proposal, it is considered that the proposal would lead to endangerment of public safety due to the substandard nature of the existing laneway. Therefore, the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise.*

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report (15<sup>th</sup> July 2021)

Basis of Planning Authority's decision.

The Planning Officer considered that the principle of the proposed development was acceptable in terms of land use zoning. However the Officer stated that the proposal represents an overdevelopment of the site and that the scheme would be overbearing and visually obtrusive and would have overshadowing impacts on surrounding properties and the adjacent laneway. Furthermore, the Officer considered that it would be visually incongruous, discordant and obtrusive when viewed along the streetscape. Furthermore, the Planning Officer agreed with the Transportation Department that the proposal would lead to a traffic hazard.

#### 3.2.2. Other Technical Reports

**Transportation Planning** (7<sup>th</sup> July 2021): recommends permission be refused due to the narrow widths and substandard visibility for pedestrians on the footpath for existing vehicles onto Sandycove Road. The intensification of traffic during the construction and operational phases would endanger public safety.

**Public Lighting** (14<sup>th</sup> June 2021): Request details for proposed external lighting for the access points, car parking spaces and bicycle spaces.

**Drainage Division** (24<sup>th</sup> June 2021): Requests more information regarding surface water disposal and submission of a revised proposal for limiting discharge from the site.

**Parks Department:** No comments received.

**Building Control:** No comments received.

**Environment Section** (24<sup>th</sup> June 2021): Requests further information in relation to noise impacts during construction and the preparation of a construction waste management plan, material source and management plan, and operational waste management plan.

### 3.3. **Prescribed Bodies**

Irish Water (27<sup>th</sup> June 2021): Requested confirmation that the development would be served from the public watermain on Sandycove Road and not the existing watermain in the adjoining laneway and that further investigations be undertaken to provide certainty that the proposal for disposal of foul effluent will not include a pumping and storage system.

### 3.4. **Third Party Observations**

Fourteen Third-Party Observations were submitted to the Local Authority opposing the proposed development. The key points can be summarised as follows:

- The bulk and scale of the proposal constitutes overdevelopment and intensification and is out of character with the area.
- Balconies and windows will cause direct overlooking of neighbouring living rooms and bedrooms.
- Insufficient car parking spaces.
- Concern for pedestrians due to the proximity of the laneway to traffic lights at the junction of Sandycove Road and Elton Park.
- Overshadowing and daylight and sunlight impacts for neighbouring properties.
- Reduced water pressure for neighbouring properties.
- Traffic safety and congestion concerns.
- No details provided in relation to the demolition of the asbestos roof.
- Proposed works shown on neighbouring properties.

- Highlights precedents of refusal for development in the area (D16A/0780, D00A/1201, D03A/0205, D17A/0630).
- Conflict of use with existing neighbouring land uses (i.e. tennis courts).
- Proposal materially contravenes the site's 'A' zoning objective.
- Devaluation of property values.
- No justification for outsized commercial-scale scheme on residentially zoned lands.
- Inaccuracies on the planning drawings submitted with the application including failure to illustrate the layout of neighbouring garden correctly.

## 4.0 Planning History

### 4.1. Subject Site

**Section 96 Social Housing Exemption Certificate DLRCC Ref. V/032/21:** A Social Housing Exemption Certificate was issued by the Local Authority in respect of the proposal on 21<sup>st</sup> May 2021.

**DLRCC Reg. Ref. D03A/0205:** Planning permission refused in April 2003 for the partial demolition of existing auction building and the erection of a 3 storey premises of 167 m<sup>2</sup> retail and 198 m<sup>2</sup> commercial overhead; and the demolition of existing outbuildings and the erection of 6 apartments (4 No. 1 bed and 2 No. 2 bed units 378 m<sup>2</sup>) in a 2 storey building over a 248 m<sup>2</sup> car park to the rear for three reasons:

1. The proposed development by reason of the nature and scale would constitute over development of the site and would seriously injure the amenity of adjoining residential properties and would thereby materially contravene the Development Plan zoning objective for the area
2. The proposed development would lead to traffic congestion and endanger public safety by reason of a traffic hazard.
3. Inadequate drainage and water supply details have been submitted.

**DLRCC Reg. Ref. D00A/1201:** Planning permission in February 2001 refused for partial demolition of existing auction building and erection of a three storey retail and



commercial premises, and the demolition of existing out buildings and erection of 7 apartments (five no 1 bed & two no 2 bed units) in a three storey building over carpark to the rear for four reasons:

1. The proposed nature and scale of the development is excessive and would constitute overdevelopment of the subject site and would be out of character with the pattern of development in the area. This would materially contravene the zoning objective of the area.
2. Inadequate parking provision could lead to undesirable onstreet parking, which would therefore endanger public safety by reason of a traffic hazard.
3. No drainage or water supply details have been submitted.
4. Overlooking of adjoining residential properties to the east and south and the proposal would be visually obtrusive.

#### **4.2. Neighbouring Sites**

Site off Sandycove Road behind Nos 22-26 Sandycove Road

**DLRCC Reg. Ref. D16A/0780; ABP Ref. PL06D.247858:** Planning permission refused in April 2017 for one two-storey house for two reasons:

1. Having regard to the height, scale, design and layout of the dwelling as proposed, serious concerns exist that the proposed development would give rise to the overlooking and overshadowing of adjacent private gardens to the north and would also constitute a visually overbearing form of development when viewed from adjacent property to the south. It is therefore considered that the proposed development would constitute the overdevelopment of a restricted site and would have a seriously injurious impact on the visual and residential amenities of adjacent property.
2. Having regard to the restricted width and substandard nature of the existing vehicular access laneway onto Sandycove Road and the substandard visibility available for pedestrians of traffic exiting onto Sandycove Road, it is considered that the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise. It is also considered that the proposed development would set an undesirable precedent for similar

type developments on nearby property and lead to further intensification of use of this sub-standard laneway.

No. 30 Sandycove Road

**DLRCC Reg. Ref. D17A/063; ABP Ref. PL06D.249330:** Planning permission granted in March 2018 for A. Demolition of conservatory to existing two bedroom ground floor apartment. B. Change of Use of existing dental surgery at first floor level to residential use. C. Change of Use of existing garage/store at rear to dental surgery with a proposed new first floor. D. Provision of three car parking spaces with access off existing laneway. The Board's reasons and consideration were:

*Having regard to the established uses on the site and the design and limited scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of properties in the vicinity and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.*

## 5.0 Policy Context

### 5.1. Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities, (DoHPLG, 2020)

These statutory guidelines update and revise the 2015 Sustainable Urban Housing: Design Standards for New Apartments Guidelines, and the 2018 Guidelines in relation to Shared Accommodation schemes. The objective is to build on the content of the 2015 apartment guidance and to update previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines.

Section 2.4 of the Guidelines states that 'Intermediate Urban Locations' are "generally suitable for smaller-scale (will vary subject to location), higher density development

*that may wholly comprise apartments, or alternatively, medium-high density residential development of any scale that includes apartments to some extent (will also vary, but broadly >45 dwellings per hectare net)".* This includes sites within walking distance (i.e. between 10-15 minutes or 1,000-1,500m) of high capacity urban public transport stops (such as DART, commuter rail or Luas) or within reasonable walking distance (i.e. between 5-10 minutes or up to 1,000m) of high frequency (i.e. min 10 minute peak hour frequency) urban bus services or where such services can be provided.

Appendix 1 of the Guidelines set out the required minimum floor areas and standards for apartments as follows:

**Minimum overall apartment floor areas:**

Studio	37 sq m (n/a)*
One bedroom	45 sq m (38 sq m)*
Two bedrooms (3 person)**	63 sq m (n/a)*
Two bedrooms (4 person)	73 sq m (55 sq m)*
Three bedrooms	90 sq m (70 sq m)*

\* *Figures in brackets refer to 1995 guidelines*

\*\**Permissible in limited circumstances*

**Minimum aggregate floor areas for living/dining/kitchen rooms, and minimum widths for the main living/dining rooms:**

Apartment type ***	Width of living/dining room	Aggregate floor area of living / dining / kitchen area*
Studio	4m**	30 sq m**
One bedroom	3.3 m	23 sq m
Two bedrooms (3 person)	3.6m	28 sq m
Two bedrooms (4 person)	3.6 m	30 sq m
Three bedrooms	3.8 m	34 sq m

\* *Note: An enclosed (separate) kitchen should have a minimum floor area of 6.5 sq. metres*

\*\**Note: Combined living/dining/bedspace, also includes circulation*

\*\*\* *Note: Variation of up to 5% can be applied to room areas and widths subject to overall compliance with required minimum overall apartment floor areas.*

In terms of private and communal open space for apartments, the Guidelines provide the following standards:

**Minimum floor areas for private amenity space**

Studio	4 sq m
One bedroom	5 sq m
Two bedrooms (3 person)	6 sq m
Two bedrooms (4 person)	7 sq m
Three bedrooms	9 sq m

**Minimum floor areas for communal amenity space**

Studio	4 sq m
One bedrooms	5 sq m
Two bedrooms (3 person)	6 sq m
Two bedrooms (4 person)	7 sq m
Three bedrooms	9 sq m

## 5.2. Dun Laoghaire Rathdown County Development Plan, 2022-2028

Since the Local Authority refused permission for the development, a new development plan has been prepared and adopted for the County. The applicable plan is the Dun Laoghaire Rathdown County Development Plan, 2022-2028.

The site is located in an area zoned 'A', which has a stated objective "*to provide residential development and improve residential amenity while protecting the existing residential amenities*". This zoning objective applies also to the adjoining buildings on Sandycove Road. There are no conservation objectives relating to the site or to this immediate area.

Policy Objective PHP19 includes the objective to 'densify' existing built up areas through small scale infill development having due regard to the amenities of existing established residential neighbourhoods.

Where a site is located within 1 kilometre pedestrian catchment of a rail station, Luas line, BRT, Priority 1 Quality Bus Corridor and/or 500 metres of a Bus Priority Route, and/or 1 kilometre of a Town or District Centre, higher densities of 50 units per hectare will be encouraged.

As a general rule the minimum default density for new residential developments in the County (excluding lands on zoning objectives 'GB', 'G' and 'B') shall be 35 units per

hectare. This density may not be appropriate in all instances, but will serve as a general guidance rule, particularly in relation to greenfield sites of larger 'A' zoned areas.

Section 12.3.7 refers to 'Additional Accommodation in Existing Built Up Areas' and sets out policies relating to infill development (12.3.7.7) which states that in accordance with Policy Objective PHP19: Existing Housing Stock – Adaptation, infill development will be encouraged within the County. New infill development shall respect the height and massing of existing residential units. Infill development shall retain the physical character of the area including features such as boundary walls, pillars, gates/ gateways, trees, landscaping, and fencing or railings. This shall particularly apply to those areas that exemplify Victorian era to early-mid 20th century suburban 'Garden City' planned settings and estates that do not otherwise benefit from ACA status or similar.

The site is on the edge of but not within an archaeological constraints area identified in the Development Plan which relates to the site of a megalithic tomb.

### **5.3. Natural Heritage Designations**

The South Dublin Bay and River Tolka Estuary SPA is to the north-west and Dalkey Island SPA to the south-east. The Rockabill to Dalkey Island is to the east. All of these European sites are within c2km of the site of the proposed development.

### **5.4. EIA Screening**

On the issue of environmental impact assessment screening I note that the relevant classes for consideration are Class 10(b)(i) "construction of more than 500 dwelling units" and Class 10(b)(iv) "urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere". Having regard to the modest size of the site at 0.05 ha and the number of units to be provided at five, which is considerably below the 500 dwelling threshold, it is considered that, having regard to the nature and scale of the proposed development, the location of the development on a brownfield serviced site together with the characteristics and likely duration of potential impacts, that the proposal is not likely to have significant effects on the environment and that

the submission of an environmental impact assessment report is not required. The need for an environmental impact assessment can therefore be excluded by way of preliminary examination.

## **6.0 The Appeal**

A First-Party Appeal was submitted to An Bord Pleanála on 11<sup>th</sup> August 2021 opposing the Local Authority's decision to refuse permission. As outlined above, as part of the First Party Appeal, the Appellant has proposed the following amendments:

1. Omission of the three undercroft car parking spaces,
2. Redesign of Apartment No. 1 from a three storey unit to a two storey unit (i.e. the unit replaces the car parking provision),
3. The second floor balcony will be setback a further 1.5m from the northern elevation along Sandycove Road and the associated balustrade will be constructed with glass.

Dwg Nos. HDS\_PL\_003C, HDS\_PL\_004C, HDS\_PL\_005C, HDS\_PL\_006C, and HDS\_PL\_008C are submitted with the Appeal illustrating the proposed amendments.

The grounds of appeal can be summarised as follows:

- The proposed development is compliant with national, regional and local policy.
- Whilst the site is restricted, it is an infill site, and is an appropriate development site given the existing non conforming use on the site, and its location within a built up urban area close to public transport and all community and commercial services.
- The proposed density, site coverage and plot ratio are consistent with planning policy.
- A financial contribution in lieu of communal open space is acceptable.
- The proposed second floor accommodation is setback from Sandycove Road to align with the buildings on either side of the site, thus minimising the visual impact. The use of pre-coloured render to the setback floor distinguishes this form from the existing façade. As stated above, the Appeal now proposes to set

back the balustrade to the roof terrace by 1.5m and to construct it with glass to minimise its visual impact.

- The scale of the building to the lane is mitigated because of the changing topography of the lane to the rear. The ground level is 1.1m below the level of the lane, combined with the existing retained wall to the lane serves to obscure the ground floor units to the rear of the development.
- The courtyard elevations are orientated to other internal elevations and neighbouring boundaries. The glass block materials will admit light while maintaining privacy to different occupancies.
- Notwithstanding the fact that the properties to the northwest of the return are eleven metres from the three storey element of the building, with the removal of the car parking spaces and the dropping down of Unit 1, any loss of sunlight to these properties will be further reduced due to the two storey design change to the proposed development.
- The daylight and sunlight analysis undertaken as part of this planning application shows that any loss of sunlight is within acceptable boundaries.
- The biggest impact on the neighbour to the northeast is from apartment No. 4, where there is no overlooking, and because of the orientation of the two buildings there will be little overshadowing.
- The existing front elevation will be retained and cleaned to acknowledge the place of this premise in the local memory. As such, the visual impact will be to enhance rather than degrade.
- Given that the three storey element of the proposed development is set to the back of the property and the existing frontage has been maintained as is – with the balcony on the second floor now to be setback 1.5m – the reason for refusal is without merit.
- The proposed scheme complies with all relevant development management standards and as such future residents will enjoy well designed apartments on a central, well serviced location with excellent public transport and community facilities.

- The development will act as a template rather than a poor precedent.
- There will be no loss of amenity to adjoining neighbours nor affect daylight and sunlight.
- The increase in traffic generated from the development is minor. The access laneway is similar to many other laneways throughout the country and will have little impact on public safety.
- Having regard to the site's proximity to the Dart station (800m) and the bus service in the area, it is considered that the proposed development does not require car parking.

#### **6.1. Planning Authority Response**

The Local Authority advised in a response to An Bord Pleanála on 6<sup>th</sup> September 2021 that notwithstanding the proposed amendments outlined in the First-Party Appeal, the Appeal does not address all of the Planning Authority's concerns.

#### **6.2. Observations**

Three valid Observations supporting the Local Authority's decision to refuse permission were made to the Board from the following parties:

- Thomas Cook, No. 29A Sandycove Road
- Sean Burke, No. 26 Sandycove Road
- Sandycove Tennis & Squash Club.

Similar points raised in the Observations submitted to the Local Authority are reiterated in the Observations to the Board. The key points can be summarised as follows:

- No material change in the circumstances since permission was previously refused to redevelop the site to justify a different decision for the subject proposal. Previous reasons for refusal still apply.
- The previous occupier was a low intensity use. It involved a furniture auction each Thursday. i.e. very different from a commercial or retail outlet.



- There is no case for outsized commercial-scale development on the site, which is zoned for residential development. The proposal is an inherent overdevelopment of the site.
- The Local Authority has initiated enforcement proceedings in respect of the current use restaurant/multi-purpose retail.
- The Local Authority has examined the neighbouring house (No. 26) in the context of adding it to the list of Protected Structures. The proposal fails to respect the heritage and architectural value of the neighbouring properties and is out of scale with the adjoining dwellings.
- Serious infringement of the building line at No. 27 already brings serious overbearing along with a material loss of sunlight/daylight.
- A dark, dull wall, 10m high and 20m long, would be built against No. 26.
- The site is too small to create its own character.
- The proposal is unsuitable for the location and will seriously comprised the amenity of the surrounding area.
- It is unrealistic to expect future residents of the apartments not to have cars.
- There is severe congestion in the area. Any additional pressure on available parking would make a bad situation worse.
- The proposal will result in overlooking.
- Inadequate provision of space and light with the scheme.
- Conflict of interest between the long established floodlit tennis activities and the fence-line potential residential windows, which threatens the functioning of the Club.
- Public notices do not accurately describe the proposed development. The material changes proposed as part of the appeal have not been readvertised.
- Discrepancies shown on the planning drawings including, the neighbouring property shown to be covered in buildings, when it is actually laid out as a lawn. Furthermore, the rear extension to No. 26 is not shown.

## 7.0 Assessment

My assessment considers the planning application as lodged with the Planning Authority de novo. The proposed development has been amended by way of the Applicant's First-Party Appeal submission. Notwithstanding this, the issues that arose in the first instant are still pertinent and as such the alternative scheme has been considered as part of my assessment. In the event An Bord Pleanála considers granting permission for the alternative scheme, the Board may wish that the application should be readvertised to the public.

Having examined the application details and all other documentation on file, inspection of the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Land Use Zoning
- Suitability of Design
- Residential Amenity
- Drainage
- Traffic and Access
- Other Matters
- Appropriate Assessment.

Each of these issues is addressed in turn below.

### 7.1. Land Use Zoning

The site is zoned for residential development (Objective A: *to provide residential development and improve residential amenity while protecting the existing residential amenities*) in the Development Plan. Under this land use zoning objective residential is listed as a permitted in principle use. Offices less than 200 sq m (which will not have adverse effects on the A zoning objective), shop neighbourhood, enterprise centre and tea room/café are a number of uses that are listed as being open for consideration under the Objective. Having regard to the long-established commercial use on the site, the scale of the proposed Class 1/Class 2 use, and the site's land use zoning objective, I consider the proposed development to be acceptable in principle, subject to

quantitative and qualitative safeguards in respect of design and amenity. Whilst I note the concerns of the local tennis club in terms of potential conflicts between the proposed residential use and established sports facility, I consider the proposed residential use appropriate having regard to the land use zoning of the site.

## **7.2. Suitability of Design**

The existing building on site is two storey fronting Sandycove Road, with a single storey rear extension. In addition, there are single storey outbuildings and a shed to the rear of the site. The proposed development involves the demolition of all the single storey structures and construction of a part two/part three storey block, with the proposed Second Floor to align with the front building line of the neighbouring properties at Nos. 26 and 29 Sandycove Road. I do not consider that the proposed additional height in principle on Sandycove Road is inappropriate when viewed in the context of the pitched roof of Nos. 29 and 29A and the Dutch billy gable on No. 30 Sandycove Road. However, in my view, the proposal to position the front elevation of the new Second Floor to align with the front building line of the Nos. 26 and 29 will appear incongruous and will be visually obstructive when viewed from Sandycove Road, which largely comprises two storey terraces of attractive period dwellings. I consider the proposal in the First Party Appeal to setback the balustrade by 1.5m and to construct it with glass will be of minimal benefit to reduce the overall visual and overbearing impact of the proposal on the streetscape. Whilst there are no Protected Structures<sup>3</sup> in the immediate area nor is the site located within an Architectural Conservation Area, I consider that the scheme will adversely impact the streetscape's visual amenity.

In my view, the proposed second floor element to the rear of the site would constitute an incongruous and visually obtrusive feature for nearby residential properties. The proposal to omit this rear element in the First Party Appeal greatly reduces the bulk and scale of the scheme and its overall visual impact on the neighbouring properties, in particular on the residents of Nos. 29 and 29A and on the laneway. However, the proposed overall scale and massing of the eastern and western elevations,

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<sup>3</sup> I note the comments made by the owners of No. 26 that the Department of Housing, Local Government, and Heritage previously examined the possibility of adding the neighbouring property, Lawson Terrace, to the national inventory of architectural heritage. Correspondence relating to same is attached with Mr Seán Burke's submission to the Local Authority.

notwithstanding the use translucent glass block, would, in my view, seriously injure the visual amenities and adversely impact on the area's residential amenity. Notwithstanding the Applicant's arguments that the scheme may with the Development Plan's quantitative standards in terms of density, plot ratio and site coverage, I consider the proposal constitutes overdevelopment.

In terms of architectural treatment, I consider the proposal to be poor. Notwithstanding the use of translucent glass block, in my opinion, the scheme fails to relate to nor complement the character of the area with a contemporary design and as such is not consistent with Section 12.3.7.7 of the current Development Plan.

In conclusion, in my view the proposed development would be visually obtrusive and would fail to adequately respond to its context or integrate successfully with the immediate and surrounding built environment, thereby seriously injuring the visual and residential amenities of the area. I consider that the proposed development provides a poor urban design solution that fails to respect the adjoining residential properties and as a result of its overall scale and massing would constitute overdevelopment of the site.

### **7.3. Residential Amenity**

#### **Apartment Standards**

- 7.3.1. The Applicant states that the proposed scheme is compliant with the relevant quantitative and qualitative standards in the Development Plan and Apartment Guidelines. As outlined in the table in Section 2.1 above both the original scheme submitted to the Local Authority and amended scheme submitted with the First-Party Appeal are compliant with the 2020 Apartment Guidelines minimum floor areas.
- 7.3.2. However, Section 3.7 the 2020 Apartment Guidelines requires no more than 10% of the total number of units in any private residential development may comprise of two-bedroom three-person units. As both the original and amended scheme propose that 60% of the units comprise this type, the scheme is not compliant with the Guidelines in this respect.

Notwithstanding that the units are compliant with the Guideline's minimum overall floor areas, room sizes, storage areas and private amenity space, due to the site's restricted nature and the number of units proposed, the apartments have a very poor

configuration, and thereby will, in my view, fail to provide future residents with a reasonable level of amenity. For example, a number of the bedrooms in Unit No. 4 and 5 have small windows looking out into small void areas or the mid-yard. I note that no analysis was submitted with the application to demonstrate the quantum of daylight and sunlight each unit would achieve. A building lifecycle report has not been submitted with the application.

#### Open Space

- 7.3.3. In terms of private open space, the units are compliant with the Apartment Guidelines quantitative standards. The space proposed for Units 2 and 3 in the original scheme is accessed directly via bedrooms, as is the space for Unit 1 in the amended appeal scheme. This space is located along the southern boundary of the site, at the rear of the laneway. It is not clear what boundary treatment is proposed to provide privacy to this space for future residents. Unit 4 has a west facing terrace (10.7 sq m) and is accessed via the living space. This terrace is c.2m from the western boundary and overlooks the neighbouring property's rear extension and back garden. Unit 5 has a front terrace at Second Floor Level directly overlooking the Sandycove Road. Overall, I consider the quality of private open space to be poor.
- 7.3.4. Section 4.10 of the 2020 Apartment Guidelines state that the provision and proper future maintenance of well-designed communal amenity space will contribute to meeting the amenity needs of residents. The minimum required areas for public communal amenity space are set out in Appendix 1. The proposed development does not provide any communal open space and as such is non-compliant with the Guidelines in this respect. Furthermore, the site does not directly adjoin public open space. I note that the Applicant states that a financial contribution can be paid in lieu of communal space. However having regard to my concerns in relation to the private open space provision and the fact that there is no public open space proposed as part of the scheme either, I do not consider this proposal acceptable in this instance.

#### Loss of Privacy

- 7.3.5. As stated above, I have concerns in respect to overlooking between the proposed terrace associated with Unit 4 and No. 26 Sandycove Road. I note from my site visit that the eastern elevation of the rear extension to No. 26 contains windows directly facing the subject site (see Photograph 9 attached). I note the concerns of residents

located on the northern side of Sandycove Road directly opposite the subject site. The terrace associated with Unit 5 is located c.17m from No. 44 Sandycove Road, which has large south facing windows. Furthermore, the proposal for the southern boundary is unclear and as such I have concerns regarding what level of privacy will be provided to the proposed Ground Floor units. In the amended scheme, the proposed dining area associated with Unit 1 includes a window located less than 15m from the rear elevation of Nos. 29 and 29A Sandycove Road and directly overlooks their rear gardens. In summary, due to the restricted nature of the site and the configuration of the proposed units, the proposed development will result in significant overlooking and a loss of privacy for neighbouring residents.

#### Sunlight and Daylight Impacts/Overshadowing

- 7.3.6. As stated above, the Applicant has not prepared a sunlight and daylight analysis of the proposed development. I have concerns in relation to the quantum of light some of the rooms will receive due to the orientation and restricted nature of the site and the configuration of the units.
- 7.3.7. The Applicant has prepared an overshadowing analysis of the original scheme submitted to the Local Authority for the Spring Equinox and Summer Solstice. The analysis includes built structures to the rear of No. 26 however, I note from my site visit that the majority of the neighbouring rear property is a landscaped garden. In summary the analysis demonstrates that there will be a significant increase in overshadowing of the neighbouring rear gardens (Nos. 26, 29, and 29A), which would reduce the residential amenity currently enjoyed by these properties. In addition, the proposed private open space at Ground Floor level associated with Units 1-3 appears to be overshadowed for substantial parts of the day.

#### **7.4. Drainage**

- 7.4.1. Both the Local Authority's Drainage Division and Irish Water recommended that the Applicant confirm whether or not the development would be served from the public watermain on Sandycove Road (and not the existing watermain in the adjoining laneway) and that further investigations be undertaken to provide certainty that the proposal for disposal of foul effluent will not include a pumping and storage system. Whilst the Local Authority's decision ultimately did not relate to these matters, I note that the Applicant did not provide any further clarity on the issues as part of the First-

Party Appeal. The Engineering Services Report states *“The foul drainage proposal includes 2 number connections. One from the northern boundary on Sandycove Road into the existing public combined system and a second from a new line constructed in the laneway to fall by gravity to the existing combined sewer in Sandycove Road. Note it may be possible to connect to the existing combined sewer in the laneway, however this is subject to invert confirmation along line and may require a pumped attenuation system given level constraints of the site.”* I do not consider it would be necessary for this matter to form a reason for refusal of planning permission in this case given the substantive grounds of refusal cited above.

## **7.5. Traffic and Access**

- 7.5.1. The Local Authority’s second reason for refusal related to the substandard nature of the laneway and the potential for the development to lead to a traffic hazard or obstruction of road users. Permission has been previously refused to redevelop the subject site and neighbouring sites for similar reasons. As the amended scheme omits the previously proposed three car parking spaces, the reason for refusal is no longer as relevant. Whilst I note local residents concerns in relation to potential overspill car parking, having regard to the small number of units proposed and the site’s proximity to public transport, in my view the omission of car parking spaces is acceptable in principle. In relation to potential traffic impacts during construction, I submit that these could be addressed in a detailed construction traffic management plan. As such, I do not recommend that planning permission be refused on traffic related grounds.

## **7.6. Other Matters**

### Shopfront Design

I concur with the Local Authority that the proposed timber screen/slats on the western side of the Ground Floor shop window is unacceptable from a visual impact perspective and reduces the potential vitality the unit could contribute to the area.

### Public Notices

Local residents raise concern in relation to the description of development in the statutory notices. I am satisfied that the statutory notices provide a brief description of the nature and extent of the originally proposed development as per the requirements

of the *Planning and Development Regulations 2001 (as amended)*. As stated above, in my view, the issues that are relevant to the original scheme are still pertinent to the amended scheme proposed as part of the First Party Appeal. In the event An Bord Pleanála considers granting permission for the alternative scheme, the Board may wish that the application should be readvertised to the public.

#### Unauthorised Development

I note that third parties have highlighted that the Local Authority has initiated enforcement action in respect to the current commercial/restaurant use on site. In my opinion, the Board should limit its assessment to the subject development. Any potential unauthorised development are matters for the Local Authority to consider.

### **7.7. Appropriate Assessment**

- 7.7.1. As stated above, the South Dublin Bay and River Tolka Estuary SPA is to the north-west and Dalkey Island SPA to the south-east. The Rockabill to Dalkey Island is to the east. All of these European sites are within c2km of the site of the proposed development.
- 7.7.2. The proposed development involves the construction of an apartment building on a site of 0.05ha that has previously been subject to development, is already in commercial use and that is served by the city's sewerage system. The potential impact of the proposed development on the quality and quantity of the effluent from area's sewers is negligible given its size relative to the urban development that the sewers already serve. I consider there is no potential for development on the appeal site to give rise to any disturbance or displacement of habitats or species that could have an effect of the Natura 2000 sites there.
- 7.7.3. In conclusion, having regard to the nature and scale of the proposed development, the redevelopment of a brownfield site within an established urban area on serviced land, and the separation distance to the European sites to the subject site, I do not consider that the proposal would be likely to significantly impact the qualifying interests of the European sites during either the construction or operational phases of development. As such, I consider that no Appropriate Assessment issues arise. In conclusion, I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.



## 8.0 Recommendation

I recommend that planning permission be refused for the proposed development based on the reasons and considerations set out below.

## 9.0 Reasons and Considerations

The appeal site is located in an area zoned “A” in the Dun Laoghaire Rathdown Development Plan 2022-2028, where the objective is “*to provide residential development and improve residential amenity while protecting the existing residential amenities.*” This objective is considered reasonable. Having regard to the restricted nature of the site, and the scale and massing of the proposed development, it is considered that the proposal would constitute overdevelopment and seriously injure the amenity of adjoining residential properties. Furthermore, the configuration of the proposed apartments, the standard of qualitative private open space, failure to comply with the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” published by the Department of Housing, Local Government and Heritage in December 2020 in terms of percentage of two-bedroom three-person units proposed and communal open space, the proposed development would result in a poor standard of residential amenity for future occupants. In addition, the proposal would result in a loss of privacy and have adverse overshadowing impacts on neighbouring properties, thereby reducing the area’s residential amenity. As such, the proposed development would be contrary to the proper planning and sustainable development of the area.

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Susan Clarke

Planning Inspector

11<sup>th</sup> May 2022