



An
Bord
Pleanála

Inspector's Report

ABP-312417-22

Development

Permission for the demolition of parts of an existing three storey detached dwelling and the two garages, the construction of a part single part three storey extension to the side and rear of the existing dwelling to form 2 no. 4 bedroom semi-detached dwellings, the construction of a new part single part two storey 3 bedroom type dwelling and all associated site development works.

Location

28 Spencer Villas, Glenageary, Co. Dublin, A96 E2K0

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D21A/0714

Applicant(s)

Brinnin Holding Ltd

Type of Application

Planning Permission

Planning Authority Decision

Split Decision

Type of Appeal	Third Party Appeal First Party Appeal
Appellant(s)	Eda Smyth Brinnin Holding Ltd
Observer(s)	Daire Higgins
Date of Site Inspection	7 th July 2022
Inspector	Susan Clarke

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1.0 Site Location and Description

- 1.1. The site, known as Ivanhoe, is located at 28 Spencer Villas, Glenageary, Co. Dublin and has a stated area of 0.1061ha. The site is located on the northern side of Spencer Villas (cul-de-sac), in a mature residential area, approximately one kilometre (as-the-crow-flies) to the centre of the village of Dun Laoghaire at George's Street. A narrow laneway runs parallel to the site along its western boundary. The site is bounded by Hudson Park to the north, a large detached dwelling to the east known as Sunholm, Spencer Villas to the south, and the laneway to the west with semi-detached dwellings beyond. Development in the vicinity comprises a mix of detached, semi-detached and terraced dwellings with varying architectural styles.
- 1.2. The site comprises a detached, three storey, period house (226 sq m) with a hipped and pitched roof profiles, gable-fronted bay detail to the front, first floor bay projection to the side (west), and single storey flat-roofed extension to the rear (north). There is one detached garage, to the side of the existing dwelling. I note reference is made to a detached garage to the side of the dwelling, however this was demolished at the time of my site visit. The property is setback from the public roadway and is served by two pedestrian accesses and a vehicular access from Spencer Villas, and two vehicular accesses along the laneway. The property has a landscaped front garden and long rear garden with mature planting and trees.

2.0 Proposed Development

- 2.1. The proposed development consists of:
- Demolition of 58 sq m of the existing dwelling (including single storey rear extension, a two-storey portion of the dwelling to the west, and demolition works at second floor level);
 - Demolition of the side garage (24 sq m) and rear garage (86 sq m);
 - Construction of a part single/part three storey extension (322 sq m) to the side and rear of the existing dwelling to form two 4-bedrommed semi-detached dwellings (each measuring 245 sq m);

- Construction of part single/part two storey 3-bedroomed, flat-roofed, detached dwelling (182 sq m) to the rear of the site,
- Provision of new vehicular and pedestrian access points, and modification to one of the existing vehicular access point off Spencer Villas;
- Replacement of the existing roller shutter vehicular access point off the service laneway with a new vehicular access point to serve the proposed detached dwelling; and
- Landscaping and associated works.

2.1.1. Following a Request for Further Information (dated 1st October 2022), the scheme was amended as follows:

- the balconies on the rear elevation of the semi-detached houses were omitted and the roof was extended to incorporate these areas in the house,
- the Applicant confirmed that the western elevation of the semi-detached dwelling would be finished in brick to match the front elevation,
- relocation of the proposed boundary between the two semi-detached dwellings and the detached dwelling in a southerly direction, resulting in the detached dwelling having an open space provision of 60 sq m and for car movements to enter and exit this premises in a forward gear,
- omission of the first floor windows on the southern elevation and provision of additional rooflights on the proposed detached dwelling,
- the Applicant confirmed that the surface water drainage solution would not connect to the public foul water drainage network, and
- Provision of a SuDS measures (rain garden, rainwater harvesting system, water butts) for the proposed detached dwelling.

2.1.2. The Applicant confirmed in the RFI Response that it was not intended nor within the remit of the Applicant to get the laneway taken in charge.

2.1.3. The First-Party Appeal includes a revised scheme with amendments to the first floor of the proposed detached dwelling, whereby the first floor level is setback from the side boundary with Sunholm by 3.2m. This would result in the proposed detached dwelling changing from a 3-bed to a 2-bed plus study unit.

3.0 Planning Authority Decision

3.1. Decision

The Local Authority issued a split decision on 3rd December 2021 in respect of the proposed development, granting permission for the works to the existing dwelling to provide for the two semi-detached dwellings, but refused permission for the detached dwelling and replacement of the roller shutter vehicular access with a new vehicular access point for the following reason:

The proposed dwelling, by reason of its proximity to site boundaries, massing, relationship to existing adjacent properties and overall design, would adversely impact on the residential amenity of adjacent properties by reason of overbearing appearance, would detract from the existing amenities of the area, would depreciate the value of property in the vicinity, and would not accord with the provisions of Section 8.2.3.4 of the Dún Laoghaire-Rathdown County Development Plan 2016-2022 regarding Additional Accommodation in Existing Built-up Areas (vi) Backland Development and (vii) Infill. The proposed development would therefore be contrary to the provisions of the Dún Laoghaire-Rathdown County Development Plan 2016-2022. Furthermore, the proposed development would, if permitted, would set an undesirable precedent for similar development in the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

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 backland element was unacceptable due to its massing, design, proximity to boundaries and open space layout. Following the submission of Further Information (which was deemed to be significant by the Local Authority) the Officer considered that the proposed detached dwelling was contrary to the Development Plan's policy in relation to backland development and infill development. As such, the Officer recommended that

permission be refused for the proposed detached dwelling and granted for the two semi-detached dwellings.

3.2.2. Other Technical Reports

Transportation Planning: No objection, subject to condition.

Drainage Division: No objection, subject to condition.

Parks Department: No comments received.

Environment Section: No objection, subject to condition.

3.3. Prescribed Bodies

Irish Water: No correspondence on file.

3.4. Third Party Observations

3.4.1. Ten Third-Party Observations were submitted to the Local Authority opposing the proposed development. Four further Observations were submitted to the Local Authority in response to the Significant Further Information. The key points can be summarised as follows:

- Overdevelopment and excessive density
- Inappropriate scale, massing and design that is out of keeping with the area's character and architectural heritage
- Development is not permitted on the right-of-way. The right-of-way extends along the northern boundary to the rear of No. 29 Spencer Villas (Sunholm).
- The area assigned for the proposed detached dwelling is not in the ownership of the current owner.
- Loss of privacy and overlooking
- Overshadowing
- Proposal would result in excess traffic and on-street parking in the area
- Adversely impact the area's residential amenity

- Laneway inadequate to cater for proposed detached dwelling and represents a traffic hazard
- Negative construction impacts (noise, traffic disruption, dust, fumes)
- No precedent for a dwelling to have access off the laneway
- Detached dwelling will establish a poor precedent for similar type development in the area
- Discrepancies on the planning drawings
- No details provided in relation to the maintenance of the laneway

4.0 Planning History

Subject Site

The Local Authority's Planning Report identifies three planning applications relating to the site:

11426/81: Planning permission refused by the Board for a single storey dwelling to the rear due to its excessive nature and the site size, and the level of residential amenity it would provide.

10810/80: Outline permission refused by the Board for a dwelling in the rear garden.

1441/63: Permission granted for the retention of flats.

Meenagowan, 32 Spencer Villas, Glenageary, County Dublin

DLRCC Reg. Ref.: D15B/0081; ABP 244973: Planning permission granted in August 2015 for the construction of a single storey detached habitable room to rear of existing house, subject to five conditions.

The Bungalow, Spencer Villas, Glenageary, Co. Dublin (directly oppose the subject site, on the southern side of Spencer Villas)

DLRCC Reg. Ref.: D12A/0010: Planning permission granted in April 2012 for the redevelopment of an existing single storey dwelling to include, extension to ground and first floor, the integration of the existing structure and the subdivision of the extended building to form 2 no. 2 storey semi-detached dwellings with amended

elevations and associated site works to include 2 no. separate vehicular entrances on a 0.35 acre site.

5.0 Policy Context

5.1. Dun Laoghaire Rathdown County Development Plan, 2022-2028

Since the Local Authority issued its decision in respect of the subject proposal, 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 dwellings on Spencer Villas. There are no conservation objectives relating to the site or to the 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.

Section 12.3.7.2 of the Development Plan relates to the **Sub-division of Dwellings** and states *inter alia*: in accordance with Policy Objective PHP19: Existing Housing Stock - Densification and Adaptation, the sub-division of existing dwellings into two or more dwelling units will be encouraged in circumstances where it would contribute to maintaining a viable community in an area, will allow for the opportunity of downsizing, is in a location well served with amenities, and where the existing dwelling is of an appropriate size.

Section 12.3.7.6 relates to **Backland Development** and states:

Where the Planning Authority accepts the general principle of backland residential development to the rear of smaller, more confined sites, within the existing built-up area, the following standards will apply:

- Generally, be single storey in height to avoid overlooking.
- Appropriate scale relative to the existing dwelling and of high quality of design.
- Adequate vehicular access of a lane width of 3.7 metres must be provided to the proposed dwelling (3.1 metres at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.
- A wider entrance may be required to a backland development to or from a narrow laneway.
- Existing dwelling and proposed dwellings shall have minimum individual private open spaces - exclusive of parking - of 48 sq.m. each for one/ two bedroom units, or 60 sq.m. plus for three/ four or more bedroom units.
- Proposed single storey backland dwelling shall be located not less than 15 metres from the rear façade of the existing dwelling, and with a minimum rear garden depth of 7 metres.
- Proposed two storey backland dwellings shall be located not less than 22 metres from the rear façade of the existing dwelling where windows of habitable

first floor rooms directly face each other. Proposed two-storey backland dwellings should have a minimum rear garden depth for the proposed dwelling of 11 metres.

- A relaxation in rear garden length, may be acceptable, once sufficient open space provided to serve the proposed dwelling and the applicant can demonstrate that the proposed backland dwelling will not impact negatively on adjoining residential amenity.

5.2. Natural Heritage Designations

The South Dublin Bay and River Tolka Estuary SPA (site code: 004024) is to the north-west and Dalkey Island SPA (site code: 004172) and Rockabill to Dalkey Island (site code: 003000) are to the east. All of these European sites are within c2km of the site of the proposed development.

5.3. 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 0.1061 ha and the number of units to be provided at three, 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

6.1. Third-Party Appeal

6.1.1. A Third-Party Appeal was submitted to An Bord Pleanála on 10th January 2022 by the Eda Smyth opposing the Local Authority's decision. The grounds of appeal can be summarised as follows:

- The existing dwelling has significance as part of the Earl of Longford and Viscount de Vesci legacy in the development history and architectural heritage of Dun Laoghaire Rathdown.
- The proposal presents a permanent loss of unique architectural heritage.
- The proposal would be injurious to the amenity of residences on Spencer Villas, and Sunholm to a particularly serious degree.
- No conservation report was requested or provided.
- No architectural heritage assessment was conducted.
- The inclusion of the balconies in the overall floorspace of the dwellings, was not reflected in the revised description.
- The proposal for two/three storey extensions requires a more rigorous assessment.
- No assessment was given to the building lines or two-storey height along Spencer Villas. The proposal would interrupt the building line along the rear of the houses on the north side of Spencer Villas substantially.
- No shadow plan or light survey was submitted where overbearing and overshadowing would present substantial impact to the adjoining property.
- The proposed development would interrupt the building line along the rear of houses on the north side of Spencer Villas. Two stories, of more than 3m in depth, to the rear of the existing dwellings will result in the loss of Ivanhoe's unique character in the visual amenity of Hudson Park.

A submission from Grace Cuthbertson was attached to the Third-Party Appeal, which welcomed the Local Authority's decision to refuse permission for the detached

dwelling. In addition, Ms Cuthbertson's original Observation to the Local Authority was attached to the Third-Party Appeal.

6.2. First-Party Response to Third-Party Appeal

The Applicant submitted a First-Party Response to the Third-Party Appeal. The key points raised in the Response can be summarised as follows:

- The Response includes a report from Rob Goodbody, Historic Building Consultants, to address the conservation grounds raised in the Third-Party Appeal. The report states that "*Ivanhoe has size and an unusual form, but does not equate to good architecture or beauty.... Ivanhoe was not built at the time that the estate (Longford de Vesci estate) was being planned and it is not in one of the significant streets, terraces or squares that so aptly define the essential character of how the estate was planned. Spencer Villas is merely a late addition to the estate, infilling land that happened not to have been developed at an earlier stage. That does not convey any significance.*"
- The site is not a Protected Structure nor is it located in an ACA.
- The revised statutory notices complied with the relevant provisions of the Planning Regulations.
- The proposal fully complies with Section 8.2.3.4(i) of the Development Plan (2016-2022).
- The proposal would enhance the streetscape.
- Having regard to the orientation of the site, the nature, extent, and setbacks proposed, there is no requirement for shadow diagrams or light surveys. Notwithstanding this, shadow diagrams are included with the Response and confirm that overshadowing is not an issue.
- The proposal will not affect the visual amenity of Hudson Park.
- The proposed detached dwelling will not affect the amenity or privacy of No. 29 by way of overlooking or overshadowing; there are no windows in the proposed unit facing No. 29 and it is proposed due north of the neighbouring house.
- There are no Protected Structures on Spencer Villas.

- The Applicant has no objection to the attachment of conditions relating to noise and the avoidance of disruption during the construction phase of the development.
- There is no right-of-way through part of the site as suggested by the Appellant. No evidence has been included to support the Appellant's claim.
- The proposal complies with the Development Plan's off-street parking policy.
- It is unreasonable to suggest that the proposal would generate the need for 11 No. cars.
- Reference to planning applications relating to the site that are 40 years old are not relevant.
- The proposal at No. 15 Spencer Villas is materially different to the proposed development.

6.3. First-Party Appeal

6.3.1. A First-Party Appeal was submitted to An Bord Pleanála on 10th January 2022 by the Applicant in relation to Condition No. 2 relating to the omission of the proposed detached dwelling from the scheme. The Appeal includes a revised scheme with amendments to the first floor of the proposed detached dwelling, whereby the first floor level is setback 3.2m from the side boundary with No. 29. This would result in the detached dwelling being amended from a 3-bed unit to a 2-bed plus study unit.

6.3.2. The grounds of appeal can be summarised as follows:

- Compliance with the Development Plan's standard for a minimum rear garden depth for the proposed dwelling of 11m, is not required in this instance because the design and layout of the proposed detached dwelling does not include any first floor elevation windows facing towards the proposed semi-detached dwellings. As such, there is no overlooking. The separation distance between the first floor windows on the detached dwelling and the proposed semi-detached dwellings exceeds 22m.

- The proposed boundary treatment between the semi-detached dwellings and the detached dwelling would further reduce or avoid any visual impact from the latter on the former dwellings.
- The dwellings are sufficiently setback from one another so not to adversely impact on the residential amenity of the adjacent properties by reason of overbearing.
- The existing mature landscaping on No. 29 would substantially screen and limit views of the proposed detached dwelling and ameliorates any visual impact.
- The separation distance of 27m between the proposed detached dwelling and No. 29 ensures there will be no overbearing impacts.
- The height of the detached dwelling is lower than the eaves height of the two storey side elevation of the proposed 28B unit and the finished floor level is 1.15m lower than 28A and 28B.
- Having regard to the modest scale of the two storey part of the mews dwelling, its location at the end of the adjoining rear garden, the existing shed that has an overall height of 3.2m and is constructed hard on the boundary with No. 29, the lower ffl, and the shallow depth (less than 6m) of the two storey element, it is not agreed that the mews would have an adverse impact on any part of the rear garden at No. 29 by reason of overbearing appearance.
- The proposed detached dwelling is not 'infill' development.
- The development complies with Policy RES3 by ensuring a reasonable protection of the existing residential amenities and the character of Spencer Villas. It will provide for a sustainable level of development.
- Notwithstanding the above, should the Board not concur that the proposed detached dwelling does not adversely impact the area's amenity, the Applicant includes a revised scheme with amendments to the first floor. The revised proposal setbacks the first floor level from the side boundary by 3.2m through the reduction of the mews from a 3-bed to a 2-bed plus study. This would reduce the alleged overbearing visual impact from the side elevation of the rear garden of No. 29.

6.4. **Planning Authority Response**

The Planning Authority advised the Board on 20th January 2022 that it is of the opinion that the Appeal does not justify a change of attitude to the proposed development.

6.5. **Observations**

An Observation from Daire Higgins was submitted to the Board on 3rd February 2022. The key points raised in the Observation can be summarised as follows:

- In the proposed plans, the inclusion of off-street parking for the two semi-detached houses in effect removes parking on the street. It takes away 3 on-street spaces because it would not be possible to park in front of the gates.
- The proposal would substantially increase traffic and parking congestion on the road.
- The inclusion of the mews would set an unwelcome precedent for backland development, which would substantially change the nature and personality of Spencer Villas.
- The proposed development will result in the overdevelopment of the site.
- The proposal will be a visual detraction and contribute to traffic.

7.0 **Assessment**

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:

- Principle of Development
- Density
- Residential Amenity
- Traffic and Access
- Appropriate Assessment.

Each of these issues is addressed in turn below.

7.1. Principle of Development

- 7.1.1. The proposed development involves the provision of three dwellings (two semi-detached dwellings and one detached dwelling) on the site, which has a stated area of 0.1061ha. As outlined above, the Local Authority granted permission for the works to the existing dwelling to facilitate the two semi-detached dwellings, but refused permission for the detached dwelling due to its proximity to site boundaries, massing, relationship to existing adjacent properties, and overall design.
- 7.1.2. 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. I consider the proposed development to be acceptable in principle, subject to quantitative and qualitative safeguards in respect of design and amenity.
- 7.1.3. The First-Party Appeal argues that the proposed development complies with backland development with the exception of the length of the rear gardens for the detached dwelling. However, the Applicant argues that this is an advisory provision only. The relevant section of the Development Plan in relation to backland development, infill development, and the subdivision of a dwelling are referenced above. Section 5.9 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (May 2009) refers to infill residential development and includes: *Potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships*. These also provide: *In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill*. Therefore, while the principle of an infill and backland development can be supported within the residential land use zoning, it needs to be ascertained whether the proposed development of three houses on the subject site would be sustainable on this site area and would not constitute undesirable piecemeal development and be detrimental to the amenities of adjoining residential properties or the character of the area. Regard is had to these issues in the Assessment below.

7.1.4. In relation to the application establishing a precedent for development of this kind, I highlight that that neither the Local Authority nor An Bord Pleanála are bound by precedent decisions, and each application/appeal is assessed on its own merits. I do not agree with the Observer that the proposed detached dwelling would substantially change the nature and personality of Spencer Villas, as it is located to the rear of the two proposed semi-detached dwellings and will not be visible from the majority of viewpoints along Spencer Villas.

7.2. Density

7.2.1. As outlined above, the Development Plan outlines that as a general rule the minimum default density for new residential developments in the County shall be 35 units per hectare, particularly in relation to greenfield sites of larger 'A' zoned areas. The proposed development has a density of 28 No. units to the hectare, which is very low by comparison to new housing developments, particularly in the context of a site which is serviced and in close proximity to public transport. Accordingly, in terms of quantitative development management standards, the proposed development would not be considered as overdevelopment.

7.3. Impact on Residential Amenity

Architectural Design

7.3.1. Whilst I note the Appellant's concerns regarding the architectural heritage of the existing dwelling, the Historic Building Consultant report states that "*Ivanhoe is not a fine example of anything. In the front façade the half-hipped breakfront on the right totally dominates the façade, while lacking any real features of interest. The front door, which is normally a strong element in a façade, is rendered somewhat pathetic by the overbearing projection alongside and its lack of strong elements, while the left-hand side of the elevation is rendered uneasy by the part-hipped roof with its pierced bargeboards. These bargeboards, which, incidentally, are not reflected in the right-hand gable, would be a total anathema to the Arts and Craft movement, which disapproved of unnecessary decoration that served no artistic or practical purpose*". I highlight that the Local Authority's Conversation Officer raised no objection to the proposed development. The existing dwelling is not a Protected Structure nor is it located in an ACA. In my view, the proposed works to the existing dwelling are acceptable.

- 7.3.2. In terms of the proposed two semi-detached dwellings, I consider their architectural design, scale and massing to be appropriate and in keeping with the character of the area. Whilst they are three storey in height, the third storey has a half-hipped roof (similar to the existing dwelling) with the ridge height (9.7m) matching that of the side chimney on the existing house. The eaves level is marginally greater than No. 29 Spencer Villas. The building line is also maintained along Spencer Villas and the Applicant confirmed at RFI stage that the western elevation would be finished with brick and as such, the two semi-detached units will integrate well into the streetscape.
- 7.3.3. The separation distance between the site and No. 27 Spencer Villas ameliorates any potential for overbearing impacts on the neighbouring properties. Furthermore, there are no windows proposed on the first or second floor along the western elevation of No. 28B and as such no direct overlooking of No. 27 will occur. No. 28A would be setback one metre from the boundary wall with No. 29. Whilst this is closer than the existing separation distance (i.e. 3.5m), there are no windows proposed along this elevation at first or second floor level and as such no direct overlooking would occur. No. 29 is setback 1.2m from the boundary wall. The originally proposed balconies at second floor level, which would have resulted in direct overlooking of the proposed detached dwelling, were omitted at RFI stage. The windows at first and second floor level on the northern elevation of the proposed two semi-detached units would directly overlook the proposed detached dwelling. However, there are no windows at first floor level proposed on the southern elevation of the detached dwelling. The rear gardens associated with the semi-detached dwellings measure 14.6m in length. Furthermore, a new 2m high post and panel boundary fence is proposed between the detached unit and the semi-detached units, which will screen the private open space area associated with the detached unit. As such, I do not consider that the overlooking from the two semi-detached dwellings on the detached unit would extend beyond the degree of overlooking that is typical in urban/suburban areas. In summary, in my opinion, the proposed semi-detached dwellings will not have adverse overlooking or overbearing impacts or negatively impact the visual amenity of the area.
- 7.3.4. In terms of the proposed detached dwelling to the rear of the site, it is part single storey, part two storey (6.55m) in height with a flat roof and a contemporary architectural design. Due to a gentle slope across the site, the finished floor level of the proposed detached unit will be 0.05m to 1.15m lower than that of the semi-

detached units (see Dwg. No. XT-516-005, FI). The proposed contemporary design provides a positive juxtaposition to the more traditional style of buildings that are dominant in the area. Having regard to the setback provided at first floor level on the proposed dwelling, I do not consider that it will have any overbearing impacts on the proposed two semi-detached dwellings to the south of the site, which are separated from the subject unit by 13.7m at ground floor level and 23m at first floor level. As stated above, there are no windows proposed on the southern elevation at first floor level of the detached dwelling and as such, no overlooking of the proposed semi-detached units or neighbouring units on Spencer Villas could occur at this level. In addition, there are no south facing windows proposed on the single storey element of the dwelling (which would serve the living space). The northern elevation is setback from the site boundary by 0.975m. A terrace and windows serving the bedrooms and bathroom at first floor level overlook Hudson Park. I do not consider overlooking of this space to be problematic as by definition it is a public space where there is no expectation of privacy.

- 7.3.5. I note that the Development Plan states that backland development should have a minimum rear garden depth for the proposed dwelling of 11 metres. However, the Development Plan also states *a relaxation in rear garden length, may be acceptable, once sufficient open space provided to serve the proposed dwelling and the applicant can demonstrate that the proposed backland dwelling will not impact negatively on adjoining residential amenity.* As discussed below, sufficient open space has been proposed for the three units. Having regard to the foregoing, and that the site is serviced and in close proximity to public transport and as such represents an efficient and sustainable proposal, I consider that a relaxation of the 11m standard is acceptable in this instance.
- 7.3.6. In terms of the proposed detached dwelling's impact on No. 29 Spencer Villas, I note that it is setback 1.38m from the boundary wall and that the two storey element (parapet height 6.5m) will extend 4.5m above the height of the 2m high boundary wall with No. 29. The first floor levels of the subject units (i.e. the proposed detached dwelling and No. 29) are setback by 27m diagonally. There are no windows proposed along the eastern elevation at first floor level of the rear unit so no direct overlooking of the neighbouring rear garden will occur. I note that the rear garden of No. 29 is approximately 34m in length (7.5m in width) and that the existing shed (measuring

approximately 3m in height, 12m in length and 7.5m in width), on the subject site is built immediately adjacent to the boundary wall. Furthermore, I concur with the Applicant that the existing mature trees in the rear garden of No. 29 will largely screen the detached unit. I note from my site visit that No. 29 is barely visible from the site, where the detached dwelling is proposed (see photo 12). Having regard to the foregoing, I do not concur with the Local Authority's Planning Officer that the proposed detached dwelling would have a negative visual overbearing impact on No. 29 and is generally consistent with Section 12.3.7 (Backland Development) of the Development Plan.

- 7.3.7. Notwithstanding the above, I note the Applicant's amended option submitted with the First Party Appeal to setback the first floor level from the site boundary by 3.2m through the reduction of the dwelling from a 3 bedroom dwelling to a two bedroom plus study dwelling. Whilst I acknowledge the Applicant's attempts to address concerns raised in respect to overbearing impacts, I do not consider the revised amendment necessary. Notwithstanding this revised proposal would reduce potential for overbearing impacts on No. 29, I consider that the reduction would be relatively minor and would be of limited benefit to the neighbouring dwelling. In my view, the original proposal for a 3-bedroomed dwelling is a more efficient use of the site, whilst also protecting the area's residential amenity.

In summary, in terms of the overall scale and architectural treatment of the proposed development, I do not consider the proposal excessive for the site or surrounding area. The site is not located in close proximity to Protected Structures. Furthermore, the area is not an Architectural Conservation Area. I am satisfied that the overall visual impact of the proposed development in the area is satisfactory. Accordingly, I do not consider that the proposal will impact property values in the area.

Standard of Accommodation

- 7.3.8. In terms of the standard of accommodation that the dwellings could provide, the units have conventional layouts and are consistent with the Quality Housing for Sustainable Communities-Best Practice Guidelines for Delivering Homes Sustaining Communities (2007). Furthermore, the proposed development is consistent with the Local Authority's requirement for 60 sq m of private open space for three/ four bedroom

units. As such, I am satisfied that the proposed development would provide residents with an acceptable standard of accommodation.

Overshadowing

- 7.3.9. The Third-Party Appeal outlines that no shadow plan or light survey was submitted where overbearing and overshadowing would present substantial impact to the adjoining property. The proposed two semi-detached units are located east of laneway No. 27 Spencer Villas immediately west of No. 29 and south of the proposed detached unit. Having regard to the orientation of the site, to the pathway of the sun, the separation distances between the properties and the existence of the boundary walls and the scale and massing of the proposed two semi-detached units and detached unit, I am satisfied that no undue loss of light or overshadowing would occur to the neighbouring properties. This is confirmed in the Applicant's shadow diagrams that were submitted as part of the First-Party Response to Third Party Appeal.
- 7.3.10. Having regard to the nature of the proposed development and the omission of the second floor balconies, I do not foresee any reason why the development would cause nuisance or disturbance that would reduce the area's residential amenity in comparison to any other of the neighbouring dwellings in the area. Whilst noise levels in the area would increase during the construction of the proposed development, due to the temporary nature of the impacts, I do not consider that they will adversely impact the residential amenity of the area in the long-term future. Should the Board be minded to grant permission for the proposed development, I recommend that a standard condition restricting the hours of construction be attached to the permission.
- 7.3.11. In conclusion, I do not consider that the proposed architectural design will negatively impact the area's architectural character or amenities. I consider that the proposed development would result in no undue overbearing impacts, overshadowing or loss of privacy on the neighbouring properties or adversely impact the area's residential or visual amenities. To conclude, in my view the proposed development is consistent with Policy Objective PHP19 to 'densify' existing built up areas through small scale infill development while also protecting the amenities of the existing established residential area.

7.4. Traffic/Access/Car Parking

7.4.1. The proposed development includes for off-street parking within the curtilage of each of the three dwellings. The Observer has raised concern regarding this aspect of the proposal, stating that it would substantially increase traffic and parking congestion in the area and will result in the loss of three on-street spaces because it would not be possible to park in front of the proposed gates.

7.4.2. The Local Authority's Transportation Division had no objection to the development, subject to conditions including *inter alia*:

- The applicant to submit a confirmation of a legally acceptable agreement between the owners or interested parties who intend to bring the laneway to standards suitable to be taken in charge, in accordance with the Development Plan requirements.
- The access lane shall be completed to DLRCC's taking in charge requirements.
- Provision of street lighting along the shared access laneway.
- Drawings illustrating the details of all proposed services that are existing/proposed along the shared access laneway.

7.4.3. The Local Authority did not attach the above recommendations as conditions to its decision. The Applicant would appear to have a right-of-way over the laneway but does not own it and as such it would be *ultra vires* to require the Applicant to undertake works to the laneway.

7.4.4. The laneway has two sections; a section running in a north-south direction along the subject site boundary, and a second section running in an east/west direction, parallel to the rear of Spencer Villas (from Nos. 16-27) and St. Peter's Terrace (Nos. 1-6). There are only two vehicular access/egress points along the north/south section, both of which serve the subject site. This section of the laneway measures between 4.5m and 4.8m in width and is well maintained (see photos 3 and 8). The east/west section has five vehicular access/egress points and a number of pedestrian entrances. This section of the laneway is significantly overgrown, particularly the easternmost element adjacent to the subject site (see photo 6). The westernmost section is partially used as a planting area (see photo 7). Having regard to the extent of overgrown vegetation along the east/west section of the laneway, it is apparently that is rarely used by

vehicles or pedestrians. While the laneway backs onto Hudson Park, there is no direct access to the park from the laneway.

- 7.4.5. The proposal includes the construction of a boundary wall 2.535m high and installation of a 4.25m entrance gate along the eastern side of the site, adjacent to the detached dwelling. Furthermore, the proposal includes the repair of the existing wall along the eastern boundary of the site and the retention of the vehicular access to the rear of No. 28B. The Applicant illustrated how a car would access and egress from the proposed detached dwelling at RFI stage (Dwg. No. XT-516-003, FI), however I note that no such analysis was provided in respect of the existing vehicular access along the lane to No. 28B. I note that the Design Manual for Urban Roads and Streets (DMURS) specifies that a carriageway width for local streets with a shared surface carriageway is 4.8m. Furthermore, Section 12.3.7.6 (Backland Development) requires that adequate vehicular access of a lane width of 3.7 metres must be provided to a proposed dwelling (3.1 metres at pinch points) to allow easy passage of large vehicles such as fire tenders or refuse collection vehicles.
- 7.4.6. Whilst I had initial concerns regarding the safety of the two access/egress points on the laneway for both pedestrians and vehicles (and considered recommending the omission of these points), having visited the site and seen its condition, I am satisfied that the laneway is sufficiently wide enough to accommodate the additional traffic resulting from the proposed development. Having regard to the width of the laneway and the short distances between the access/egress points to Spencer Villas, I do not consider that vehicles will be travelling at fast speeds that would endanger any pedestrian potentially using the laneway also. However, as stated above, it would appear that the laneway is rarely used by pedestrians at present. Furthermore, I consider that while 90m sightlines in both directions would not be achievable from the access/egress points, the visibility is sufficient for the volume of traffic on the laneway. Whilst the height of the proposed boundary treatments could be reduced to increase visibility and sightlines, this may reduce the privacy to the rear garden of No. 28B, and in turn may reduce the residential amenity of this dwelling.
- 7.4.7. In conclusion, having regard to the presence of the two existing access/egress points from the site onto the laneway, the width and condition of the laneway, the low volume of traffic generated by the proposal, I consider that the proposed development would not present a traffic safety risk. In terms of any potential works in relation to the

upkeeping of the laneway or having it taken in charge, I highlight that Section 34(13) of the *Planning and Development Act 2000 (as amended)* states: “A person shall not be entitled solely by reason of a permission under this section to carry out any development.” As such, should the Board be minded to grant permission for the development, it is the Applicant’s responsibility to ensure sufficient legal interest exists to implement the permission.

7.5. Validity of the Application

The Appellant highlights that the omission of balconies at second floor level was not referenced in the revised statutory notices. I note that the Local Authority’s statutory notice template does not require the details of any proposed amendments to be specified, but rather their purpose is to highlight that significant further information has been submitted to the Local Authority. The omission of the balconies is clearly illustrated on Dwg. No. XT-516-004. Furthermore, the amendment was referenced in the Applicant’s cover letter (dated 28th October 2021). I am satisfied that this did not prevent the concerned parties from making representations.

7.6. Appropriate Assessment

As stated above, the South Dublin Bay and River Tolka Estuary SPA (site code: 004024) is to the north-west and Dalkey Island SPA (site code: 004172) and Rockabill to Dalkey Island (site code: 003000) are to the east. All of these European sites are within c2km of the site of the proposed development.

- 7.6.1. The proposed development involves the provision of three dwellings (one detached and two semi-detached) on a site of 0.1061ha that is already in residential 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 on the Natura 2000 sites there.
- 7.6.2. In conclusion, having regard to the nature and scale of the proposed development, the redevelopment of a brownfield site within an established suburban 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 granted for the proposed development based on the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the residential land use zoning of the site (Objective A), the nature, design and massing, and density of the proposed development, and the provisions of the Dun Laoghaire Rathdown County Development Plan 2022-2028, including Policy Objective PHP19 that aims to ‘densify’ existing built up areas through small scale infill development, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential amenities of the area or of property in the vicinity in terms of overlooking, overbearing or overshadowing impacts and would be satisfactory in the context of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on 9 th November 2021 to the Local Authority, 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
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	<p>development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The Applicant shall submit detailed boundary treatment plans for the written agreement with the Local Authority, prior to the commencement of the development.</p> <p>Reason: In the interest of pedestrian and vehicular traffic safety.</p>
3.	<p>Prior to the commencement of development, details of the materials, colours and textures of all external finishes, shall be submitted to and agreed in writing by the Planning Authority.</p> <p>Reason: In the interests of orderly development and the visual amenities of the area.</p>
4.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
5.	<p>The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.</p> <p>Reason: In the interest of orderly development.</p>
6.	<p>The and numbering of the dwellings shall be in accordance with a naming and numbering scheme submitted to, and agreed in writing, by the Planning Authority, prior to the occupation of the dwelling.</p> <p>Reason: In the interest of orderly street numbering.</p>
7.	<p>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 hours of working, tree protection</p>

	<p>measures, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
8.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated. Reason: In the interest of sustainable waste management.</p>
9.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
10.	<p>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</p>

	<p>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.</p> <p>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.</p>
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Susan Clarke
Planning Inspector

11th July 2022