



An
Bord
Pleanála

Inspector's Report

ABP-312515-22

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| Development | Construction of 3 houses, also includes a pumping station to the rear of the house together with all associated site development works. |
| Location | Site to the north of Emerald Square, off Cork Street, Dublin 8 |
| Planning Authority | Dublin City Council |
| Planning Authority Reg. Ref. | 2542/21 |
| Applicant(s) | Michael Flood |
| Type of Application | Planning Permission |
| Planning Authority Decision | Refused Permission |
| Type of Appeal | First Party Appeal |
| Appellant(s) | Michael Flood |
| Observer(s) | Cllr Máire Devine Brid Smith TD, Cllr Tina MacVeigh, Cllr Hazel deNortúin Emerald Square Residents Association |

Botany Weaving Mill Ltd
Madeline Rutledge

Date of Site Inspection

18th January 2023

Inspector

Susan Clarke

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1.0 Site Location and Description

- 1.1. The rectangular shaped site, measuring 968sq m, is located in the inner city off Cork Street, a major artery to the centre city. The southern section of the site is overgrown, while the northern section, particularly along the eastern boundary, has been used as a waste dumping/fly-tipping area. Emerald Square is composed of 41 early 1900's artisan type, two storey dwellings, laid out in terraces, with on-street car parking to the front. It is a cul de sac accessed directly from Cork Street. The Coombe Hospital is located opposite the junction of Cork Street and Emerald Square. A 1916 memorial is located directly outside the south-eastern corner of the site. The culverted Abbey Stream runs along the north-eastern boundary of the site.
- 1.2. To the east of the site there is an established nursing home/day care centre and Nos. 65-71 Lourdes Road, to the west of the site lie the back gardens of houses in Reuben Street and Flanagan's Community Centre. To the south east is an office/light industrial unit (Botany Weaving Mill Ltd) with vehicular access to Emerald Square. A terrace of dwellings on Emerald Square borders the site to the south. To the north of the site, an access road serves allotments and is connected to Lourdes Road. There are pockets of light industrial uses throughout the area along with the commercial uses on Cork/Dolphins Barn Street. The area is well served by public transport including the LUAS station at Fatima.

2.0 Proposed Development

- 2.1. The proposed development consists of:
- Construction of three, two storey, 3-bedroomed, houses comprising of a pair of semi-detached houses and a detached house.
 - Provision of a shared surface with two on-street car parking spaces for the semi-detached houses, and a vehicular access gate and one parking space for the detached house.
 - Provision of private open space, bin storage, bike parking and landscaping.
 - Construction of a foul water pumping station to the north of the proposed detached house together with all associated site development works.

- 2.2. The dwellings will be finished in brick with slate/fibre-cement slate roofs. The semidetached dwellings have a gable frontage, while the detached unit is double fronted.
- 2.3. A 1340mm diameter surface water sewer runs within the site, parallel to the eastern boundary. It is proposed that this sewer will service House Nos. 1 and 2 in addition to the installation of gravel filled attenuation tanks and flow restrictors (limited to 2l/s). House No. 3 will be serviced by a proposed underground percolation tank sized to accommodate a 100-year return period storm event, with an additional 20% allowance for climate change. A separate public water sewer runs to the west and north of the proposed dwellings.
- 2.4. The new foul pumping station (measuring 1.7m³ with 48 hour storage capacity) will service the three dwellings and connect with an existing 225mm combined sewer on Lourdes Road. In terms of water supply, a new connection to an existing cast-iron 1920 watermain on Emerald Square is proposed.
- 2.5. Further to a **Request for Further Information** (RFI), the following amendments were made to the scheme:
- House No. 2 was setback 665mm to accommodate the culvert wayleave.
 - The boundary wall between the rear gardens of House No. 1 and House No. 2 was adjusted to ensure both houses have a minimum of 50 sq m private open space.
 - The proposed planter in front of House No. 3 was pushed back 440mm to accommodate the culvert wayleave.
 - The boundary wall to the front of House No. 3 is to be constructed with steel post and timber sheeting.
- 2.6. As part of the **First-Party Appeal**, the Applicant proposes to:
- Provide additional protection to the culvert to avoid loading it by providing a 200mm reinforced concrete lid supported on deep concrete walls either side of the culvert.
 - Provide a 3m long ramp (slope of 1:12) at the proposed scheme entrance to avoid a clash with the existing culvert.

Dwg. No. D039-C-006 Drainage Sections -P01 illustrating the above amendments is included with the Appeal.

3.0 Planning Authority Decision

3.1. Decision

The Local Authority issued a Notification of Decision to Refuse Permission for the proposed development on 13th December 2021, for the following two reasons:

1. ***The proposed development does not fully address the issue of load transfer and sewer protection in accordance with the requirements of the Greater Dublin Regional Code of Practice for Drainage Works, and would likely negatively impact on the structural and operational integrity of the existing sewer during and post construction. The proposed development would be contrary to the provisions of the Dublin City Development Plan 2016-2022 and be contrary to the proper planning and sustainable development of the area.***
2. ***Having regard to the Z1 land use zoning objective, the pattern of development in the area and the gable fronted form of the semi-detached houses, it is considered that the proposed development would be out of character with the established pattern of development, would seriously injure the visual amenities of the residential area and would appear visually incongruous. The proposed development would, therefore, by itself and by reason of the undesirable precedent it would set for similar development in the area, be contrary to proper planning and sustainable development. (Bold: My emphasis.)***

3.2. Planning Authority Reports

3.2.1. Planning Report (1st June 2021 and 13th December 2021)

The Planning Officer acknowledged the Applicant's attempts to address the reasons for refusal relating to the earlier applications made in respect of the site (see Section 4.0 below). The Officer was satisfied with the proposal in terms of development management standards (plot ratio, site coverage, floor areas, lighting, private open space, and car parking). The Officer raised concerns, and subsequently

recommended that an RFI be issued in relation to (1) the visual impact of the gable fronted semi-detached dwellings, and (2) the minimum depth of cover over the 1,340mm diameter public surface water sewer crossing the site.

Subsequent to the submission of the RFI Response, the Officer accepted that the footprint of the semi-detached houses would not allow for a pitched roof profile, but stated that concerns remained regarding the gable fronted typology. The Officer stated that it would appear visually incongruous and have a negative impact on the character of Emerald Square.

In relation to the Applicant's RFI Response regarding the public surface water sewer, the Officer referenced the Drainage Department's concerns with respect to the structural and operational integrity of the existing sewer during and post construction.

The Officer recommended permission be refused as per the reasons for refusal outlined in the Notification of Decision to Refuse Permission.

3.2.2. Other Technical Reports

Drainage Division (20th April 2021 and 7th December 2021): Recommended that Further Clarification should be sought in relation to the minimum depth of cover over a 1,340mm diameter public surface water sewer crossing the site and requested that the Applicant consult with the Drainage Division.

Transportation Planning Division (7th April 2021 and 24th May 2021): No objection subject to condition.

City Archaeologist (19th May 2021): No objection subject to condition.

3.3. Prescribed Bodies

Irish Water: No comments received.

Minister of Arts, Heritage, Regional, Rural, and Gaeltacht Affairs: No comments received.

3.4. Third Party Observations

Eight Third-Party Observations were submitted to the Local Authority in respect of the proposed development. The issues raised in the submissions are similar to those also

raised in the Observations submitted to the Board and are summarised within Section 6.3 below.

4.0 Planning History

Subject Site

DCC Reg. Ref. 2501/20: Planning permission refused in June 2020 for the construction of three, two and half storey dwellings consisting of a pair of semi-detached houses with three bedrooms and study and a detached house with three bedrooms and study. The development included a new road with three new vehicular entrances and associated work. Permission was refused for two reasons: relating to (1) the layout, scale and design of the proposed development failed to have regard to the sensitive nature of the surrounding urban morphology and so would seriously injure the residential amenities of property in the vicinity, would appear visually incongruous and would have a negative impact on the character of the area, and (2) the proposal would provide a substandard level of accommodation, which fell substantially short of the recommended minimum standards and would result in an unacceptably low level of residential amenity for future occupants.

DCC Reg. Ref. 2632/09; ABP Ref. PL29S.233906: In October 2009, An Bord Pleanála upheld the Local Authority's refusal for the construction of six, 2 and 3 storey duplex units and associated works, on the grounds that the proposal would represent overdevelopment of the site resulting in an unsatisfactory standard of residential amenity for its future occupants due to the inadequate floor area and the poor quality of private open space afforded to some of the proposed dwellings and the inadequate outlook and privacy afforded to some habitable rooms in the proposed development.

DCC Reg. Ref. 4994/07; ABP Ref. PL29S.226535: In June 2008, An Bord Pleanála upheld the Local Authority's refusal for the construction of seven houses on the site. There were two reasons for refusal which stated that the development would be out of character with adjoining structure, visually obtrusive and overbearing by reason of its height and positioning, design and materials proposed; and that the houses would not provide an adequate level of amenity and would represent over-development of the site.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Since the Local Authority issued a Notification of Decision to Grant Permission for the proposed development, a new development plan has been prepared and adopted for the City. The relevant development plan to this assessment is the Dublin City Development Plan 2022-2028, which was adopted on 2nd November 2022 and came into effect on 14th December 2022.
- 5.1.2. The site is zoned Z1 (Sustainable Residential Neighbourhoods) which aims: *To protect, provide and improve residential amenities*. Residential is listed as a permissible use under this zoning objective.
- 5.1.3. The site is located within the Strategic Development and Regeneration Area 15 – Liberties and Newmarket Square. Section 13.17 of the Development Plan outlines the objectives for the SDRA, which includes for permeability interventions in the vicinity of the subject site. The site is located within the ‘Maryland’ character area of the SDRA, which allows for new developments to be six storeys in height subject to residential amenity and states that the Flanagan’s Fields on Reuben Street should be retained as a community resource and that the possibility of extending the space to the south and east should be explored.
- 5.1.4. The site is located within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Historic City), which is listed on the Record of Monuments and Places (RMP).
- 5.1.5. Chapter 5 of the Development Plan relates to Quality Housing and Sustainable Neighbourhoods. Key policies include:
- QHSN6 (Urban Consolidation): To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.
- 5.1.6. Chapter 15 outlines the Plan’s development management standards:
- Section 15.5.2 Infill Development

- Section 15.11 House Developments outlines standards in relation to floor areas, aspect, daylight/sunlight and ventilation, private open space, and separation distances.

Appendix 3 (Achieving Sustainable Compact Growth Policy for Density and Building Height in the City) outlines the Development Plan's policy in relation to building height, plot ratio and site coverage.

- Density: City Centre and Canal Belt/SDRA - 100-250 net density range (units per ha)
- Plot Ratio: Central Area – 2.5-3.0
- Site Coverage: Central Area – 60%-90%

5.2. **Natural Heritage Designations**

The site is not located within or close to any European site.

5.3. **EIA Screening**

Having regard to the nature and scale of the proposed development, comprising the construction of three residential dwellings in a serviced urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A First-Party Appeal to An Bord Pleanála was submitted on 18th January 2022 opposing the Local Authority's decision. The Appeal includes responses from Torque Consulting Engineers and Ciaran Ferrie Architects, respectively, as appendices.

The grounds of appeal can be summarised as follows:

- The Applicant states that subsequent to the Local Authority issuing a Notification of Decision to Refuse Permission for the proposal, he has consulted

with the Drainage Department, and whilst final sign off was not possible due to the appeal period, it has been agreed in principle to:

- Provide additional protection to the culvert to avoid loading it by providing a 200mm reinforced concrete lid supported on deep concrete walls either side of the culvert.
 - Provide a 3m long ramp (slope of 1:12) at the proposed scheme entrance to avoid a clash with the existing culvert.
 - Dwg. No. D039-C-006 Drainage Sections -P01 illustrating the above amendments, which is included with the Appeal, was also issued by the Applicant to the Drainage Department for agreement.
- It is argued that this issue could have been reasonably addressed as part of a compliance submission.
 - The proposed infill development would not appear visually incongruous and have a negative impact on the character of Emerald Square. The Planning Authority informed an opinion without having due regard to the infill nature of the site at the end of the cul de sac, the significant site constraints, current Building Regulation requirements, the separation distance between the side gables of No. 31 Emerald Square and House No. 1, and the planning gain of developing an overgrown plot currently used for fly-tipping.
 - The design is consistent with the (former) Development Plan's infill housing policy and the requirements of the Quality Housing Sustainable Communities – Best Practice Guidelines for delivering Homes Sustaining Communities.
 - If the same eave levels as those on Emerald Square were to be continued, it would necessitate either a much higher pitch of roof or a double pitched roof. In the former case, it is considered that this would be overbearing in scale and would dominate the streetscape; in the latter, it would result in a ceiling height of approximately 1.8m for a substantial part of the first floor plan in the centre of that plan, and as such would not be in accordance with the Building Regulations.
 - Because one of the houses is setback further than the other (to provide clearance from the existing culverted watercourse), any pitched roofs that span

front to back would be offset from one another and this would create a jarring effect in the roof profile of the houses.

- The ridge heights of the existing houses have been matched.
- The site is not adjacent to an architectural conservation area and does not contain any protected structures.
- Infill sites are generally different in their nature in terms of design, scale, and massing to the established dwelling type in the locational setting.
- The apex heights of the proposed dwellings are typical of a two storey house albeit that the roof space provides habitable space.
- The surrounding area was historically known for its Dutch Billy architecture. Some examples still remain. Therefore, a gable-fronted house type need not be considered “out of character” with the existing context of the area.
- The proposed materials complement the established built character.

6.2. Planning Authority Response

No response received.

6.3. Observations

Five Observations were received by the Board requesting that the Board uphold the Local Authority’s decision to refused permission. The Observers and their key points raised are summarised below.

6.3.1. Cllr Máire Devine, Ballyfermot Road, Dublin 10

- Concerns regarding the proximity of the proposal to the culverted Abbey Stream.
- The load transfer and sewer protection remain an issue of concern.
- Differential road surface heights will impact upon drainage system and contribute to more frequent flooding.
- The proposal is not consistent with the site’s Z1 land use zoning objective.

- The design is a departure from the form of the terraced houses on Emerald Square.
- Concerns regarding access during construction.
- Overspill car parking.

6.3.2. **Madeline Rutledge, Emerald Square, Dublin 8**

- Risk of flooding and sewage.
- Three rivers run through the site.
- Permission has been previously refused to develop the site.
- The Local Authority offered to buy the site for a green area for local residents.
- Important to retain 1916 memorial.
- Design and character of the proposal not in keeping with Emerald Square.
- Concerns regarding loss or damage to property as a result of the proposal.

6.3.3. **Botany Weaving Mill Ltd, Emerald Square, Dublin 8**

- Concerns in relation to traffic impacts during construction and post construction.
- Concerns regarding fragile water and sewerage system during construction period.
- Proposal is out of character with Emerald Square and will overlook offices and working area.
- Over intensification of use and loss of last remaining green space.
- Loss of natural light, which is crucial to the quality of the facility.
- If the proposal proceeds, the facility would have to relocate resulting in the loss of 100 jobs.

6.3.4. **Emerald Square Residents Association, Emerald Square, Dublin 8**

- Proposal does not address issue of load transfer and sewerage protection in accordance with the Greater Dublin Code of Practice for Drainage Works, and would negatively impact on the structural and operational integrity of the existing sewer during and post construction.

- Unacceptable negative impact on Emerald Square streetscape characteristics and would be visually incongruous.
- Proposal is unsuitable and unsustainable and contrary to the Development Plan, including the site's Z1 land use zoning objective.
- Concerns regarding potential impacts on Abbey Stream.
- Not satisfied that the minimum recommended depth cover of public surface water sewer is provided.
- Differential road surface heights will impact upon drainage system and contribute to more frequent flooding.
- The Appellant's examples of gable fronted houses are not relevant.
- Overspill car parking.

6.3.5. **Brid Smith TD, Cllr Tina MacVeigh, and Cllr Hazel deNortúin**, Ballyfermot, Dublin
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- Proposal will negatively impact the character of the street and area.
- Proposal will place undue burden on the drainage and sewerage system.
- Proposal is contrary to the Development Plan in relation to drainage and sewerage and therefore is contrary to proper planning and sustainable development.
- Consistent refusals to develop the site previously.

6.4. **Further Responses**

None.

7.0 **Assessment**

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

1. Principle of Development
2. Architectural Design
3. Drainage
4. Other Matters

Each of these issues is addressed in turn below.

7.1. Principle of Development

- 7.1.1. The proposal entails the construction of three dwellings on a site zoned Z1 with a stated objective “*To protect, provide and improve residential amenities*”. The provision of residential development is consistent with the zoning objective of the site and established uses on adjoining sites. I note the comments made by the Observers in relation to the loss of a green space within the area, however I highlight that access to the site is currently prohibited and that it is being partially used for fly-tipping. As such, its development will not result in the loss of a community space/facility. As outlined in Section 4.0 above, planning permission was refused to develop the site previously, however such cases do not establish a precedent and I consider it appropriate that this application should be assessed on its own merits. In conclusion, I consider the proposed development to be acceptable in principle, subject to quantitative and qualitative safeguards in respect of design and amenity.

7.2. Architectural Design

- 7.2.1. The proposed development involves the construction of three, two storey, 3-bedroomed, houses comprising of a pair of semi-detached houses and a detached house (each measuring 117.4 sq m). As outlined above, the applicable CDP plot ratio and site coverage standards for the site are 2.5-3.0 and 60%-90%, respectively. The development will result in a plot ratio of 0.6 and site coverage of 14%. Furthermore, the proposal would have a density of c. 43 units per hectare. As such in terms of quantitative development management standards, the proposed development would not be considered as overdevelopment. On the contrary, the proposed density is low having regard to the site’s location within the city centre. However, acknowledging the site’s constraints, in particular the presence of the culvert, I consider the proposed density to be acceptable in this instance.

- 7.2.2. The Local Authority's second reason for refusal states that the gable fronted form of the semi-detached houses would be out of character with the established pattern of development, would seriously injure the visual amenities of the residential area and would appear visually incongruous. During the assessment of the Applicant's RFI Response, the Local Authority accepted that the footprint of the semi-detached houses would not allow for a pitched roof profile, similar to the dwellings on Emerald Square. As outlined in the First-Party Appeal such a roof profile would necessitate either a much higher pitch of roof or a double pitched roof. The Applicant states that in the former case, it is considered that this would be overbearing in scale and would dominate the streetscape; in the latter, it would result in a ceiling height of approximately 1.8m for a substantial part of the first floor plan in the centre of that plan, and as such would not be in accordance with the Building Regulations.
- 7.2.3. While I acknowledge that Emerald Square has an attractive architectural appearance that positively contributes to the visual amenity of the area, I note that it is not an architectural conservation area or conservation area, nor are there protected structures located in the immediate vicinity of the site. House No. 1 aligns with Emerald Square's established building line, while House Nos. 2 and 3 are setback. As such, the majority of the latter houses' front facades will not be visible when one views the site from Emerald Square. Therefore, I do not agree with the Local Authority that they would appear visually incongruous or that the proposal would negatively impact on the character of the area. The steel post and timber sheeting boundary will terminate the view. I note that the details of this fence have not been provided with the application. Should the Board grant permission for the proposal I recommend that the landscaping and boundary details be agreed with the Local Authority prior to the commencement of the development.
- 7.2.4. In my opinion, the proposal will read as a separate and distinct infill scheme. I concur with the Applicant that such infill schemes are common place throughout the city. Section 15.5.2 of the Development Plan states that *Infill sites are an integral part of the city's development due to the historic layout of streets and buildings*. Furthermore, this section of the Plan requires that infill development respect and complement the prevailing scale, mass and architectural design in the surrounding townscape. Whilst I accept that should the dwellings have a roof profile similar to the terrace of dwellings on Emerald Square it would further signal to the character of the area, however I note

the Applicant's comments regarding the Building Regulations' standards and I highlight that there is no specific planning requirement for such a roof profile. The proposed dwellings' ridge height and use of materials are respectful of the area's character and will help integrate them into the surroundings. Whilst the Local Authority's reason for refusal references the gable elevations of House Nos. 1 and 2 only, in my view House No. 3 is also a departure from the Emerald Square's architectural style. Nevertheless, in my opinion, this does not render it unacceptable, but rather the proposal will contribute in its own way to the area. At present, the site is underutilised and is of little benefit to the character of the area. In my opinion, the proposed scheme would positively contribute to the visual amenity of the area. I note the Observer's comments regarding the demolition of the southern boundary wall, which has a mural. However, I do not consider that the demolition of this wall will adversely impact the visual or residential amenity of the area. The 1916 memorial would remain in-situ.

- 7.2.5. Having regard to the scale, massing and separation distances between the proposed dwellings and neighbouring property, the proposal will not be overbearing and will not cause significant overlooking impacts. Due to the scale and orientation of the proposed development, I am satisfied that it will not alter the quantum of daylight to such a significant degree that would adversely affect amenities enjoyed by the occupants of neighbouring dwellings and the Botany Weaving Mill Ltd premises.
- 7.2.6. The Local Authority and Observers raised no concern in relation to the standard of accommodation that the proposed dwellings would provide. The dwellings have a conventional layout and are consistent with the Quality Housing for Sustainable Communities-Best Practice Guidelines for Delivering Homes Sustaining Communities (2007). Furthermore, the private open space associated with the units (House No. 1 = 53 sq m, House No. 2 = 50 sq m, and House No. 3 = 343 sq m) is consistent with Section 15.11.3 (Private Open Space) of the Development Plan, which states that a standard of 5 – 8 sq m of private open space per bedspace will normally be applied. Bicycle and bin storage would be provided with the curtilage of the dwellings. Due to the size, layout and orientation of the proposal, I am satisfied that the dwellings will receive acceptable daylight and sunlight.
- 7.2.7. In conclusion, in terms of the overall scale and architectural treatment of 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 and that the scheme is consistent with Policy QHSN6 (Urban Consolidation) and Section 15.5.2 (Infill Development) of the Development Plan. In my opinion, the proposal will read as a distinct infill scheme and will positively contribute to the area's amenity, in addition to providing an acceptable standard of accommodation for future residents.

7.3. Drainage

- 7.3.1. The Local Authority's first reason for refusal relates to the potential negative impact on the structural and operational integrity of the existing sewer during and post construction. As part of the RFI Response, the Applicant stated that there would be a 3m clearance from the proposed development and the public surface water sewer running along the north-eastern boundary of the site. However in response to the RFI Response, the Local Authority's Drainage Department stated:

The public surface water sewer crossing the site has not been fully surveyed and the depth of cover has not been established over the full length of the sewer, in particular near the proposed site entrance / access road where the sewer is at its shallowest. Furthermore it is not clear what the proposed new minimum cover over the sewer is and its impact on the boundary treatment between the development and Emerald Square will be, as the road surfaces within the new development would likely need to be raised over the existing site levels.

The submitted design does not fully address the issue of load transfer and sewer protection in accordance with the requirements of the Greater Dublin Regional Code of Practice for Drainage Works and therefore it cannot be satisfactorily stated that the structural and operational integrity of the existing sewer can be maintained during and post construction. A revised design shall be submitted. The Applicant shall consult with the Drainage Division of Dublin City Council to ensure that any proposed engineering solution is reviewed and agreed to in principle prior to submission of additional information.

The long section drawing shall indicate the proposed foul outfall pipe crossing including the proposed clearance between the surface water sewer and the foul pipe.

The Applicant shall consult with the Drainage Division of Dublin City Council prior to the submission of Additional Information to ensure all concerns are addressed. (Bold: My emphasis.)

- 7.3.2. Having regard to the above, the Drainage Department recommended that Further Clarification should be sought by the Applicant. However, as outlined above, the Planning Department refused permission (partially) on these grounds.
- 7.3.3. In response to the refusal reason, the Applicant states in the First-Party Appeal that subsequent to the Local Authority issuing a Notification of Decision to Refuse Permission for the proposal, he consulted with the Drainage Department, and whilst final sign off was not possible due to the appeal period, it has been agreed in principle to:
- Provide additional protection to the culvert to avoid loading it by providing a 200mm reinforced concrete lid supported on deep concrete walls either side of the culvert.
 - Provide a 3m long ramp (slope of 1:12) at the proposed scheme entrance to avoid a clash with the existing culvert.
- 7.3.4. As stated above, the Local Authority has not provided any further comments in respect of the proposal. The Applicant has demonstrated in the First-Party Appeal that he is willing to work with the Local Authority's Drainage Department to ensure that the sewer is safeguarded during the construction and postconstruction periods. I reiterate that the Drainage Department did not recommend permission be refused on this basis, but that Further Clarification be sought. I concur with the Applicant that this matter could have been addressed via a condition attached to a positive decision requiring compliance to be agreed with the Drainage Department prior to the commencement of the development. I note that the Drainage Department had no objection to the previously proposal on the site (Reg. Ref. 2501/20) subject to condition, which was very similar in nature and layout to the subject case.

7.3.5. The Applicant has confirmed that the foundations of the dwellings would be setback from the sewer. Furthermore, the sewer would be easily accessible in the future. I do not consider that the minor increase in level of the shared road would significantly increase the risk of flooding to the proposed development or adjoining properties. I note that the site is located in Flood Zone C and that there are no records of flooding in the area.

7.3.6. Whilst I acknowledge that the culvert does constrain the site's development potential, in my opinion, it is possible to incorporate the infrastructure into a scheme, as currently proposed. There are many city centre sites located within close proximity to complex utility/infrastructural networks. In summary, I do not consider it reasonable to refuse permission on this basis.

7.4. **Other Matters**

Construction Disturbance

7.4.1. I consider that any construction disturbance impacts, including on utilities and traffic, on adjoining properties will be only temporary and are inevitable and unavoidable aspects associated with urban development. These matters could be satisfactorily agreed by conditions requiring the submission of construction management proposals, to address any impacts.

Traffic Impacts

7.4.2. The proposed development includes for one car parking space per dwelling. This exceeds the Development Plan policy to permit a maximum of 0.5 car parking spaces per house in Zone 1 (Map J) of the city. However, having regard to the limited total number of spaces provided (i.e. three), I consider the proposal to be acceptable and would help alleviate concerns regarding overspill car parking in the area. I note also that the Local Authority raised no concern in relation to the car parking provision proposed. Having regard to the site's proximity to public transport modes and the size and nature of the proposed development, I do not consider that it would represent a traffic safety hazard or result in significant overspill car parking in the area. As stated above, a traffic management plan could be prepared in respect to the construction period of the proposal to ensure there are no adverse impacts on neighbours during this time.

8.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development in 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.

9.0 Recommendation

I recommend that planning permission be granted subject to the conditions outlined below.

10.0 Reasons and Considerations

Having regard to the nature, design and scale of the proposed development in an urban setting, the site's residential land use zoning and other objectives contained in the Dublin City Development Plan 2022-2028, including Policy QHSN6 (Urban Consolidation) and Section 15.5.2 (Infill Development), it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the visual amenities or 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 and would not represent a risk of flooding on either the proposed development site itself or on other lands and as such would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

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| 1. | <p>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 16th November 2021 to the Local Authority and by the further plans and particulars received by An Bord Pleanála on 18th January 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <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> |
| 3. | <p>Prior to the commencement of development, details of the drainage arrangements, including culvert protection measures, shall be submitted to and agreed in writing by the Planning Authority.</p> <p>Reason: In the interest of public health.</p> |
| 4. | <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> |

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| 5. | <p>The Applicant shall submit details of the site's landscape and boundary treatment for written agreement with the Local Authority prior to the commencement of the development.</p> <p>Reason: In the interest of residential amenity.</p> |
| 6. | <p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues: (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p> |

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| 7. | <p>The naming 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> |
| 8. | <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 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> |
| 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</p> |

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| <p>provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</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

18th January 2023