



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312617-22

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<b>Development</b>	Construction of eight houses, alterations to 122 Merrion Road and all associated site development
<b>Location</b>	120,122 and 124 Merrion Road, Dublin 4, D04 P8X5, D04H9V3 and D04R2X8 and the laneway to the rear on Shrewsbury Park.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	3462/21
<b>Applicant(s)</b>	Seabren Developments Ltd
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party Appeals First Party Appeal
<b>Appellant(s)</b>	Suzanne Kenny Liam Smyth Seabren Developments Ltd

**Observer(s)**

None

**Date of Site Inspection**

27<sup>th</sup> January 2023

**Inspector**

Susan Clarke

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## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.48ha, is located at Nos. 120, 122 and 124 Merrion Road (residential properties). The site also includes a laneway with access onto Shrewsbury Park, to the rear of Nos. 120, 122 and 124 and to the side of 'Dromaneen' and 'Haylands' (detached residential properties located in the former gardens of Nos. 116 and 118 Merrion Road, respectively). The site is located on the northern side of Merrion Road in an established residential area in Dublin 4, approximately 2.5km southeast of the city centre area.
- 1.2. The site contains three, two storey, three bay, detached dwellings on substantial plots all with access to Merrion Road and a pedestrian/cyclist access to the rear laneway. Shrewsbury Park, a residential scheme of houses and apartments, is located to the rear of the site, No. 126 (a two storey, residential dwelling) is located to the southeast of the site, while Merrion Road borders the site to the southwest. No. 116 (residential property) and No.118 (Embassy of China), both two-storey properties, are located to the northwest of the site.
- 1.3. The immediate area is residential in nature, but also includes a number of embassies. The site is within walking distance of a number of bus stops on Merrion Road and is c. 10 minute walk from Sandymount and Sydney Parade Dart stations.
- 1.4. A set of photographs of the site and its environs taken during the course of my site inspection is attached.

## 2.0 Proposed Development

- 2.1. The proposed development consists of:
  - Demolition of a two storey side and single storey extension to the rear of No. 122, and remodelling of the dwelling including provision of a 2 storey bay window to the front, repositioning of the front door, a two storey rear and part side extension, single storey side extension, new dormer to the rear and all associated elevational alterations.
  - Construction of eight, three storey houses (4 bedrooms houses with front roof terraces) set out in two terraces with rear gardens, to the rear of Nos. 120, 122 and 124.

- Provision of a new vehicular entrance to No. 122 via a new shared vehicular carriageway (5m wide) accessed off Merrion Road to the proposed eight dwellings.
- Alterations to the front boundary wall to No.122 Merrion Road, together with reconfiguration of the site boundaries of Nos. 120, 122 and 124, resulting in a reduction in the existing rear gardens of these properties.
- Provision of ten car parking spaces (one per dwelling and two communal visitor spaces) and four visitor bicycle spaces to serve the eight new dwellings.
- Bin storage and cycle store to the rear of each dwelling.
- A secondary pedestrian and cyclist access is proposed to the rear of the eight dwellings via an existing laneway off Shrewsbury Park. It is proposed that the laneway will be resurfaced and upgraded including the provision of lighting.
- Landscaping works, and associated site works.

2.2. Following a **Request for Further Information**, the private open space associated with the eight new units was extended by one metre onto the laneway to the rear of the site. In addition, a 'hit and miss' brick wall, measuring 1.8m in height, was proposed to the second floor level terraces on Unit Nos. 1 and 8.

2.3. The first floor level is setback along the rear elevation, while the second floor level is setback again on the rear elevation and front elevation. The latter setback provides a terrace area for each unit overlooking the main entrance to the scheme. In addition, the second floor level is setback from the side boundaries for Unit Nos. 1 and 8. The western terrace has a flat roof with a height of 14.5m and an overall height (including lift/lightwell) of 15.4m, while the eastern terrace has a roof with a height of 14.15m and an overall height (including lift/lightwell) of 15.05m. The dwellings will be finished with brick at ground and first floor levels and zinc/aluminium cladding at the second floor level. A 'hit and miss' brick wall feature is proposed along the terrace area of each unit at second floor level on the front elevation. The door and windows are recessed from the front elevation, which has a local 'street' appearance. Electric vehicle charging points will be provided to the front of each unit, along with bin storage and landscaping. Six of the units (Nos. 2-7) have internal lifts providing universal access to future

occupants. A 1.2m-2.0m high cedar board fence is proposed to separate each of the rear gardens.

2.4. Foul drainage will be separate within each unit and collected in a shared gravity network within the site before discharging by gravity to the public sewer on Merrion Road. Surface water drainage will be drained through part sedum roof, part impermeable roofs to the surface network which will discharge via infiltration to the ground within the site. An application will be made to Irish Water for a new connection to the public watermain for the new units.

## 2.5. **Documentation Submitted with the Planning Application**

In addition to a Planning Application Form and Statutory Notices, the application included supporting documents (in association with architectural, engineering and landscaping drawings) as follows:

- Planning Cover Letter (August 2021)
- Architectural and Urban Design Statement (not dated)
- Landscape Report (August 2021)
- Traffic and Transportation Statement (July 2021)
- Visual Impact Photomontages (July 2021)
- Ecological Impact Statement (August 2021)
- Screening Report Appropriate Assessment (August 2021)
- Bat Fauna Survey (August 2021)
- Arboricultural Assessment & Impact Report (August 2021)
- Daylight, Sunlight and Overshadowing Assessment (August 2021)
- Site Specific Flood Risk Assessment (August 2021)
- Water Services Report (August 2021)
- Preliminary Demolition, Construction and Waste Management Plan (August 2021)
- Energy Statement (August 2021)
- Electrical Infrastructure Comments (July 2020).

As part of a Response to a Request for Further Information, the following was submitted:

- Planning Cover Letter including a Housing Quality Assessment (December 2021)
- Road Safety Audit (November 2021)
- Daylight, Sunlight and Overshadowing Assessment (November 2021)
- Public Lighting Alteration Approval (November 2021).

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Dublin City Council issued a Notification of Decision to Grant Permission on 7<sup>th</sup> January 2022 subject to 12 No. conditions. Conditions include *inter alia*:

- The side perimeter walls of the second floor terraces of house No.1 and No.8 shall be of solid brick construction. (No. 4)
- Vehicular access or car storage shall not be permitted on the laneway to the north of the site. Laneway access shall be restricted to pedestrian, cyclist or maintenance access for the development. Existing vehicular access to adjacent dwellings off the laneway shall be maintained. (No. 11A)

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports (1<sup>st</sup> November 2021 and 7<sup>th</sup> January 2022)**

The Planning Officer considered that the principle of the development was acceptable having regard to the site's land use zoning objective (Z1) and was satisfied with the proposal in terms of development management standards (density, plot ratio, housing accommodation standards, and daylight and sunlight). In addition, the Officer was satisfied that the visual impact from the proposal would not have overbearing impacts on neighbouring properties and that the modifications to No. 122 were acceptable and in keeping with the character of the area. However, the Officer raised concern regarding the provision of private open space for the proposed units and overlooking impacts on Nos. 118 and 126 Merrion Road, Haylands and No. 39 Shrewsbury Park.

The Officer recommended that an RFI be sought in relation to seven items ((i) shortfall of private open space, (ii) overlooking, (iii) clarification regarding vehicular access for existing properties to the rear laneway, (iv) provide details regarding the upgrade works to the laneway, (v) provide lighting details, (vi) submit swept path analysis for refuse vehicles and (vii) conduct a road safety audit).

Following receipt of the RFI Response, the Officer was satisfied with the revised alterations (see Section 2.2 above) and concluded that the proposal, on an under-utilised infill site, at a higher density which respects also the design of the surrounding development and the character of the area, would not be seriously harmful to the residential amenity of the surrounding properties. The Officer recommended that permission be granted in accordance with the conditions attached to the Notification of Decision to Grant Permission.

### 3.2.2. Other Technical Reports

Drainage Division (21<sup>st</sup> October 2021): No objection, subject to condition

Transportation Planning Division (16<sup>th</sup> December 2021 and 26<sup>th</sup> October 2021): No objection, subject to condition.

### 3.3. Prescribed Bodies

Irish Water: No comments received.

Irish Rail: No comments received.

### 3.4. Third Party Observations

Seven observations from local residents were submitted to the Local Authority opposing the proposed development. The key points raised in the Observations can be summarised as follows:

- Excessive density and height
- Out of keeping with the character of the area
- Overlooking and overshadowing of adjoining properties
- Concerns regarding increased noise levels from roof terraces



- Visually overbearing
- Loss of residential amenity for neighbouring residents
- Concerns relating to the use of the rear laneway and associated impact on right of way and access to other properties via the subject laneway
- No lighting for laneway proposed
- Traffic safety concerns and insufficient car parking proposed
- Concerns relation to demolition, construction and waste management plans
- Insufficient daylight and sunlight analysis
- Inaccuracies on planning drawings
- No justification for demolition of dwelling.

#### 4.0 **Planning History**

- 4.1. **Section 96 Social Housing Exemption Certificate Reg. Ref 0263/21:** A Social Housing Exemption Certificate was issued by Dublin City Council in respect of the proposal on 9<sup>th</sup> August 2021.
- 4.2. **DCC Reg. Ref. 3688/10:** Outline permission refused in November 2010, to the rear of No. 120, for a two storey mews dwelling (232 sq m) and associated works including the demolition of the existing rear boundary wall to widen the existing mews laneway off Shrewsbury Park to provide vehicular and pedestrian access, as it was considered the proposal would endanger public safety by reason of traffic hazard, due to traffic movements generated by the proposed development.
- 4.3. **DCC Reg. Ref. 4535/08; ABP Ref. PL29S.232120:** Planning permission refused in June 2008, to the rear of No. 120, for the construction of 2 No. two storey over basement four bedroom semi-detached mews dwellings and associated works as it was considered that the proposed development would constitute overdevelopment of the site and would endanger public safety by reason of traffic hazard, due to the traffic movements generated by the proposed development.

## 5.0 Policy Context

### 5.1. National & Regional Policy / Guidance

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

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 6 aims to regenerate cities with increased housing and employment;
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking
- NPO 27 promotes the integration of safe and convenient alternatives to the car into the design of communities.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location
- NPO 35 encourages increased residential density through a range of measures, including site-based regeneration and increased height.

5.1.2. The primary statutory objective of the **Regional Spatial and Economic Strategy for the Eastern and Midland Regional Authority 2019-2031 (RSES)** is to support the implementation of the NPF. The RSES identifies regional assets, opportunities and pressures and provides policy responses in the form of Regional Policy Objectives. The spatial strategy and the Dublin Metropolitan Area Strategic Plan support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built-up area of Dublin City.

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

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

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

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

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

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

**5.5. Dublin City Development Plan 2022-2028**

5.5.1. 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 2<sup>nd</sup> November 2022 and came into effect on 14<sup>th</sup> December 2022.

5.5.2. 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.

5.5.3. 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.*

- QHSN10: Urban Density *To promote residential development at sustainable densities throughout the city in accordance with the Core Strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.*
- QHSNO4: *Densification of Suburbs To support the ongoing densification of the suburbs and prepare a design guide regarding innovative housing models, designs and solutions for infill development, backland development, mews development, re-use of existing housing stock and best practice for attic conversions.*

5.5.4. Chapter 15 outlines the Plan's development management standards:

- Section 15.5.2 Infill Development
- Section 15.11.3 Private Open Space
- Section 15.13.4 Backland Housing

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: Outer Suburbs – 60-120 net density range (units per ha)
- Plot Ratio: Outer Employment and Residential Area – 1.0-2.5
- Site Coverage: Outer Employment and Residential Area – 45-60%
- Car Parking: Max 1 per dwelling (Zone 2)
- Bicycle Parking: 1 per dwelling (Long term) and 1 per 5 dwellings (Short Stay/Visitor)

## 5.6. Natural Heritage Designations

The nearest Natura 2000 sites are the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC, both located c. 800m to the east of the site.

## **5.7. EIA Screening**

- 5.7.1. 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”.
- 5.7.2. It is proposed to construct a total of eight new houses which is significantly below the 500-unit threshold noted above. The site has an area of 0.484 ha and is located within an existing built-up area but not in a business district. The site is therefore well below the applicable threshold of 10 ha.
- 5.7.3. The introduction of this residential scheme would have no adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European site. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would be minimal.
- 5.7.4. I conclude that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment, and that on preliminary examination, an environmental impact assessment report or screening determination in relation to EIA was not necessary in this case.

## **6.0 The Appeal**

### **6.1. Third-Party Appeals**

- 6.1.1. Two Third-Party Appeals (prepared by the same agent – RW Nowlan & Associates) were submitted to An Bord Pleanála on 3<sup>rd</sup> February 2022 opposing the Local Authority’s decision from Suzanne Kenny of Shrewsbury Park, Ballsbridge and Liam Smyth, Haylands, Shrewsbury Park.

6.1.2. The grounds of appeal are largely the same in both Appeals and can be summarised as follows:

- The proposal is not consistent with the established pattern and character of development on Merrion Road, which is of single houses on substantial plots.
- The proposed density and scale are excessive and as such Units 1 and 8 should be omitted.
- Overlooking of Haylands and 38 Shrewsbury Park from the roof terraces and from the second floor bedroom of Unit Nos. 1 and 8. Unit 1 is less than 1.5m from the site boundary with Haylands, the rear windows of bedroom 2 on the first floor of Unit 1 would be c.6m from the closest neighbouring boundary, while the master bedroom would be a similar distance from the rear garden boundary of Haylands. The proposed windows are c18m from the side boundary of the rear garden of No. 38. The proposal will result in a loss of privacy to neighbouring properties.
- Welcomes Condition No. 4 attached to the Local Authority's Decision, however concerns that this may result in a claustrophobic experience for residents and as such suggests that Unit 1 be omitted in order to achieve greater separation distances.
- Concerns that there may be roof terraces proposed at second floor level at the rear of the proposed units as well as the front. Request that should the Board grant permission for the proposal that a condition is attached that excludes the use of the roof at the rear at second floor level for access and use as a private amenity space.
- The proposal will have a detrimental impact on the residential amenity of Haylands due to a loss of daylight.
- The Daylight and Sunlight Report makes no reference to the dormer window at the rear of Haylands and as such the Report is deficient in this regard. This is the main source of natural light to the master bedroom. In addition, in terms of sunlight impacts on the rear garden of No. 38 Shrewsbury Park, while the degree of sunlight in terms of the hours during the day may be adequate in terms of minimum amounts that are considered required under guidelines, this

does not measure or reflect the actual impact on the sunlight reaching the rear neighbouring garden as a result of the development.

- Concerns regarding noise disturbance.
- The creation of an additional junction on the R118 is inappropriate and will lead to traffic congestion.
- Conflicts will arise with bus speeds and cycle lane usage.
- Proposal conflicts with DMURS, which is not referenced in the Applicant's traffic and transport assessment.
- There is an established vehicular access from the rear laneway to a number of properties. The right of way includes the entire laneway which runs as far as the south-eastern site boundary. The private open space associated with the proposed Units is partially within the laneway, which would result in significant changes to the laneway in terms of its width and design.
- In addition, changes to the surface treatment of the laneway is a matter of concern. The landscape plans suggest that some areas may be "taken in use if not ownership" by future residents of the houses. It is important that the laneway remains a shared laneway for all users, including those who have a current right of way across the laneway.

### 6.1.3. **First-Party Response to Third-Party Appeals**

The Applicant submitted two First-Party Responses to the Third-Party Appeals. The key points raised in the Responses can be summarised as follows:

- Any overlooking from the proposed units onto Haylands and No. 38 Shrewsbury Park will be similar to existing overlooking from adjoining residential properties and in this regard, it is not considered that there will be adverse impacts on the neighbouring properties.
- The Applicant reiterates the arguments proposed in favour of the hit and miss brick wall that are outlined in the First-Party Appeal. (See Section 6.2 below.)

- Having regard to the fact that the terraces on Unit Nos. 1 and 8 will be open to sky and measure 7 sq m, it is not accepted that future residents will feel claustrophobic.
- The proposal does not provide for roof terraces to the rear of the units, so in that respect there will be no overlooking to neighbouring properties. Furthermore, having regard to the aspect of the Bedroom windows of Nos. 3 and 4 of Unit No. 1, no overlooking of Haylands will occur.
- The Daylight, Sunlight and Overshadowing Assessment report prepared in respect of the proposal meets the recommendations for daylight and sunlight as set out in the BRE Guide.
- The results show that the proposed development meets the criteria set out in the BRE Guide save for one side window in Haylands. The report notes that this window is a dual aspect room and the main northwest window is minimally impacted and the room should only experience a minor to moderate adverse impact. This is considered reasonable given the juxtaposition of the two properties to each other's site boundaries. The dormer window referenced in the appeal faces in a north easterly direction and the assessment did not raise any issues with this habitable room.
- The analysis shows that all gardens/amenity spaces tested exceed the BRE guidance of 50% of the area receiving at least 2hrs of sunlight on March 21<sup>st</sup>, and therefore, these amenity spaces should still appear adequately sunlight throughout the year after the proposed development is built.
- The infill site is not unlike the development permitted on the adjoining sites to the rear of the laneway and to the rear of No. 118 and 116 Merrion Road and in this regard a clear precedent has been established for such backland/infill development. The proposal is consistent with Development Plan policy.
- The Traffic Impact Assessment demonstrated that the traffic movements generated would be acceptable at the location of the existing site access onto Merrion Road.
- The proposal will not conflict with traffic movements along Merrion Road or interfere with the Bus Connects plans for a Bus Corridor.



- There is no intention to alter the existing rights established along the laneway to any properties.
- The minor decrease in the width of the laneway (1 metre) to extend the rear gardens for the proposed infill development, occurs passed the existing vehicular access points to third party properties. This work will not interfere with any existing rights to traverse the laneway or services.

## 6.2. First-Party Appeal

6.2.1. A First-Party Appeal was submitted to An Bord Pleanála on 2<sup>nd</sup> February 2022 by the Applicant in relation to Condition No. 4 attached to the Notification of Decision to Grant Permission. The Condition states:

*The development shall be revised as follows: The side perimeter walls of the second floor terraces of house No.1 and No.8 shall be of solid brick construction.*

*Reason: In the interests of residential amenity of the adjoining properties.*

6.2.2. The grounds of appeal in respect of this Condition can be summarised as follows:

- The height of the proposed terrace walls to House Nos. 1 and 8 was increase to 1.8m at RFI stage, which is above the eye line of an average height person (1.7m).
- For design reasons a hit and miss brick to the upper terraces was selected so that the raised terrace walls form a feature on the elevations.
- A rendered 3D image of the hit and miss wall is included with the Appeal, which demonstrates how it can be utilised to provide privacy to the adjoining properties.
- It is considered that a solid 1.8m wall on the end of the terrace units will distort the architectural rhythm of the upper level and that the terraces will be cast into shadow by the solid 1.8m high walls.
- Hit and miss brick design approach has been used on a similar scheme at Annesly Garden in Ranelagh (PL29S.304085). It prevents direct overlooking whilst providing some natural light to filter through the wall.

- Request that the subject condition is omitted.

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

No response received.

### 6.4. **Observations**

None.

### 6.5. **Further Responses**

None.

## 7.0 **Assessment**

Having examined the application details and all other documentation on file, including the submissions received in relation to the planning application, the two Third-Party Appeals and First-Party Appeal, 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:

- Principle of Development
- Design Suitability
- Impact on Residential Amenity
- Standard of Accommodation Proposed
- Access and Traffic
- Other Matters

Each of these items is addressed in turn below.

### 7.1. **Principle of Development**

- 7.1.1. The proposal entails modifications to No. 122 Merrion Road and the construction of eight 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 lands. I consider

the proposed development to be acceptable in principle, subject to quantitative and qualitative safeguards in respect of design and amenity.

## **7.2. Design Suitability**

- 7.2.1. The Third-Party Appeals argue that the proposed density and scale are excessive and out of character with the area. In quantitative terms, the proposed development would have a residential density of 23 units per hectare (including Nos. 120, 122, and 124 Merrion Road) and 33 No. units per hectare excluding the existing dwellings on-site. As outlined in Section 5.2.5 above, the Development Plan outlines a density range of 60-120 units per hectare for the Outer Suburb areas. As outlined above, the applicable CDP plot ratio and site coverage standards for the site are 1.0-2.5 and 45-60%, respectively. The development will have a stated plot ratio of 0.475 and site coverage of 27%. 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 suburban location. However, acknowledging the site's constraints, in particular the site's size and infill/backland nature, and the distance to neighbouring residential properties, I consider the proposed density to be acceptable in this instance.
- 7.2.2. In terms of height, the ridge height of No. 122 will increase marginally from 14.52m to 14.6m. Having regard to the separation distance of the dwelling Nos. 120 and 124 to No. 122, it will have no impact on these neighbouring properties. In terms of the new three storey units, the western terrace has a flat roof with a height of 14.5m and an overall height (including lift/lightwell) of 15.4m, while the eastern terrace has a roof height of 14.15m and an overall height (including lift/lightwell) of 15.05m. As illustrated on Dwg. No. K63 PL007 A submitted with the RFI Response, the units are marginally higher than Haylands at 12.74m and No. 39 Shrewsbury Park at 12.91m. I consider the proposed height to be acceptable.
- 7.2.3. Having regard to the bulk and scale of the new units, they will not have any overbearing impact on the dwellings along Merrion Road (see View 3 – Photomontages submitted with the application). The new units are aligned with the front elevation of Haylands but their depths are narrower. They are setback c.1m from the western boundary and c.1.3m from the eastern boundary. In addition, the rear elevation of Unit 3 to No. 38 Shrewsbury Park is 12.7m at ground floor level, 15.11m at first floor level and 17m at

second floor level (Unit 3 and 4 are the closest of the proposed units to No. 38). Furthermore, the front elevation of the proposed units are all in excess of 22m from the rear elevations of Nos. 120-124 Merrion Road. Having regard to the foregoing, I am satisfied that the proposed units will not have any overbearing impacts on the neighbouring properties and as such I consider that the scale and bulk is acceptable. In terms of No. 122, its scale and massing will be reduced and as such will have no negative impacts on neighbouring properties in this regard.

7.2.4. As outlined above, the units will be finished with brick at ground and first floor levels and zinc/aluminium cladding at the second floor level. The use of materials in addition to the setbacks reduces the visual impact of the units' height and scale. As brick is widely used in the vicinity, it will further help integrate the units into the area. A 'hit and miss' brick wall feature is proposed along the terrace area of each unit at second floor level on the front elevation. The door and windows are recessed from the front elevation, which has a local 'street' appearance. In my opinion, while the new units will integrate successfully into the area, the proposal will have its own distinct architectural character, which is typically found in many infill/backland developments. No. 122 will be remodelled with brick and as such will respect the character of the existing dwelling and the neighbouring dwellings.

7.2.5. In conclusion, I am satisfied that the proposed development's height, bulk, scale and massing are appropriate for this location having regard to the site's location and the pattern of development in the wider area. At present, the site, which is in close proximity to public transport modes and utility services, is underutilized. Notwithstanding that the density and architectural design of the proposal differs to that of existing dwellings in the immediate vicinity, in my opinion, the proposal will successfully visually integrate into the area and will positively contribute to the area's character. The proposed materials will help visually integrate the proposal into the area. Having regard to the foregoing, I consider that the proposed architectural design is acceptable and that the scheme is consistent with Policy Objectives QHSN6 and QHSN04 and Section 15.5.2 (Infill Development) of the Development Plan.

### 7.3. Impact on Residential Amenity

#### Overlooking and Privacy

- 7.3.1. The Third-Party Appeals raise concerns in relation to overlooking, particularly from the terraces associated with units 1 and 8. The proposed units are orientated on a northeast/southwest axis similar to Nos. 120-124. As stated above, their rear elevations are aligned with the front elevation of Haylands. There are no windows proposed on either the northwestern or southeastern elevations. I am satisfied having regard to the separation distances between the proposed units and Nos. 120-124 that no undue overlooking would occur in this regard. Having regard to the separation distance between the proposed units and No. 38 and acknowledging that the latter has obscured glazing on its southwestern elevation (i.e. facing the subject site) (see Photo 2B and 6B), no undue overlooking is likely to occur. In addition, the side windows on No. 39, facing the rear laneway, are obscured and as such no direct overlooking of the private open spaces associated with the units will occur (see Photo 4B attached to this Report). I do not consider that the potential overlooking from the bedrooms at first floor level from Units 1 and 8 would extend beyond the degree of overlooking that is typical in urban/suburban areas and will not adversely impact the residential amenity of the neighbouring properties.
- 7.3.2. Following concerns raised by the Local Authority in relation to potential overlooking from the terraces associated with units 1 and 8, the Applicant proposed a 1.8m hit and miss brick boundary treatment for the perimeter walls of these two terraces. A similar treatment is proposed to the terraces of units 2-7, but at a height of c1.1m. As outlined above, Condition No. 4 of the Local Authority's Notification of Decision to Grant Permission requires that "*The side perimeter walls of the second floor terraces of house No.1 and No.8 shall be of solid brick construction*". While the Third-Parties welcomed this Condition, the Applicant in the First-Party Appeal argues that the hit and miss wall provides sufficient privacy and that a block wall would distort the architectural rhythm of the upper level and that the terraces will be cast into shadow by the solid 1.8m high walls. Reference to a similar scheme at Annesly Garden in Ranelagh (PL29S.304085) is mentioned. I do not concur with the Applicant that a solid brick wall on the side elevations (north-west and south-east) would significantly distort the architectural rhythm of these elevations. On the contrary they would be consistent with the elevations, which largely comprise of solid brick with zinc/aluminium on the

upper levels (see Dwg. No. K63 PL007 A). Furthermore, as stated by the Local Authority they would prevent direct overlooking to the rear garden of Haylands and No. 126. The architectural rhythm of the upper floor would be maintained on the front elevation of the units with the use of the hit and miss brick treatment. The increased height (1.8m) on the end units will provide further screening for the rear garden of Haylands and No. 126, in addition to providing bookend corners to the terraces. Having regard to the foregoing, I recommend that a similar condition to Condition No. 4 attached to the Notification of Decision to Grant, be attached to the Board's Order should permission be granted for the scheme. Furthermore, in my opinion, the omission of proposed units 1 and 8 is not warranted.

- 7.3.3. In respect to the Third-Parties concerns in relation to the potential use of the roof areas above the first floor level to the rear of the proposed units being used as terraces, the Applicant's First-Party Response clarifies that these areas are not to be used as amenity spaces. The appeal must be judged on the basis of the proposals currently submitted and any permission would state this by condition. Any such future alterations would need to be the subject of a separate permission or enforcement investigation by the planning authority. In summary, I am satisfied that this matter can be appropriately addressed through condition.

#### Daylight and Sunlight

- 7.3.4. The Third-Parties argue that the proposed development will have a detrimental impact on the residential amenity of Haylands due to a loss of daylight and of No. 38 due to a loss of sunlight. Appendix 16 of the Development Plan highlights the value of daylight and sunlight and the methodologies for assessing same. The application included a Daylight, Sunlight and Overshadowing Assessment, which was prepared in accordance with Site Layout Planning for Daylight and Sunlight' (2nd edition) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' and CIBSE Lighting guide (LG10): daylighting and window design. This document was subsequently updated at RFI stage. I have considered this study and have had regard to BRE 2009 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011). I have carried out a site inspection and had regard to the interface between the proposed development and its surroundings, as well as the third-party concerns about daylight and sunlight impacts.

- 7.3.5. I would highlight that the standards described in the BRE guidelines allow for flexibility in terms of their application, with paragraph 1.6 stating that “*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*”. It notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.
- 7.3.6. With regard to ‘light from the sky’, Section 2.2.4 of the BRE guide outlines that loss of light to existing windows need not be analysed if the angle to the horizontal subtended by the new development at the centre of the existing window is less than 25°. If so, then it is unlikely to have a substantial effect on the diffuse skylight enjoyed by the existing building. In this case, the existing dwellings along Merrion Road are well setback to the east and the limited height of the proposed development would not subtend an angle greater than 25° when measured from the existing windows. The Applicant has completed a VSC analysis for the properties located at closer distances to the eight units (i.e. Haylands and Nos. 38-41 Shrewsbury Park). In general, Vertical Sky Component (VSC) is a measure of the amount of sky visible from a given point (usually the centre of a window) within a structure. The BRE guidelines state that a VSC greater than 27% should provide enough skylight and that any reduction below this level should be kept to a minimum. If the VSC, with the new development in place, is both less than 27% and less than 0.8 times its former value, occupants of the existing building would notice the reduction in the amount of skylight. The Applicant states that the VSC for all tested windows was greater than 27% or not breaching the 0.8 times its former value for habitable rooms, except one ground floor window on the south-eastern elevation of Haylands (see Photo 5B attached to this Report). The Applicant argues that there will only be a minor to moderate adverse impact as the subject room is dual aspect. Whilst I note that the window will experience a significant loss of light (existing 37.69 to 6.79 - 0.18), I concur with the Applicant that this is acceptable having regard to the dual aspect nature of the subject room and the compact nature of the proposed development on the infill site, which is currently

underutilised. The analysis demonstrates that the main ground floor window serving the subject room would have a VSC of 35.5 with the proposed development in place.

- 7.3.7. Mr Smyth's agent states in the Third-Party Appeal that the daylight analysis makes no reference to the dormer window at the rear of Haylands and as such the Report is deficient in this regard. In response, the Applicant states that the subject dormer window faces in a north easterly direction and the assessment did not raise any issues with this habitable room. The subject window does face in a north easterly direction, however the analysis referenced by the Applicant is not presented in the planning application documentation as highlighted by the Third-Party Appellant. Notwithstanding this, I note that the analysis demonstrates that the window below the dormer would pass the VSC test. Furthermore, I highlight that unit 1 is setback at first and second floor level in comparison to the ground floor. Having regard to these factors and the orientation of the window and proposed units, in my opinion, it is unlikely that the proposal would adversely impact the daylight received by the dormer window. I highlight that the Mr Smyth has not submitted any technical or empirical evidence to support the claim that the proposal would adversely impact the daylight received by this window. Having regard to the foregoing, in my view, it would be unreasonable to omit unit 1 from the scheme or refuse permission on this basis alone.
- 7.3.8. The Applicant has also carried out a shadow/sunlight assessment for the gardens of surrounding properties. The BRE guide recommends that for such spaces to appear adequately sunlit throughout the year, at least half of the space should receive at least 2 hours of sunshine on 21st March. If as a result of new development this cannot be met, and the area which can comply is less than 0.8 times its former value, then loss of sunlight is likely to be noticeable. The Applicant's analysis of the proposal demonstrates that all the tested areas would be compliant with the BRE guide recommendations, including No. 38 Shrewsbury Park.
- 7.3.9. In conclusion, I note the Third-Party Appellant's comments in relation to the assessment, including the argument that the assessment is flawed as it has not taken account of the dormer window on the Haylands property. However I highlight that no empirical evidence has been submitted with the Appeal to demonstrate that this window would experience a significant loss of daylight which would adversely impact the residential amenity of the property. Overall, I am satisfied that the assessment is robust and provides an accurate indication of potential daylight impacts. The appeal



site is located in a well-connected urban area and as previously outlined, compact development and infill development is an objective of the NPF. Accordingly, I am satisfied that the proposed development is acceptable at this location and that it will not excessively detract from the amenities of surrounding properties by reason of daylight/sunlight impacts.

#### Noise

- 7.3.10. Concerns were raised in relation to noise impacts from the proposal. Having regard to the size and nature of the proposed development (i.e. eight new dwellings), I do not consider that it is likely that significant noise levels would occur post construction. The proposal does not include any features that would be of concern regarding security or anti-social behaviour. I am satisfied that the proposal will not generate noise levels that would adversely impact the residential amenity of the area.

#### Construction Disturbance

- 7.3.11. I consider that any construction disturbance impacts on adjoining properties will be only temporary and are inevitable and unavoidable aspects associated with urban development. I am satisfied that this matter can be satisfactorily agreed by conditions requiring the submission of construction management proposals to address any impacts. In this regard I note that the Preliminary Demolition, Construction and Waste Management Plan, which was submitted with the application, identifies measures to avoid nuisance impacts arising to neighbouring residents. The final details of this plan and a construction traffic management plan will be subject to agreement with the Planning Authority prior to commencement of development, and as such, I am satisfied that these matters can be satisfactorily addressed by way of planning condition.

#### Conclusion on Adjoining Properties

- 7.3.12. Having regard to the above, I am satisfied that, subject to conditions, the proposed development can be satisfactorily accommodated at this location and would not seriously detract from the amenities of surrounding properties. While the proposed development would involve an intensification of activity and development at both construction and operational stages, I consider that the impacts would be acceptable having regard to the site's zoning objectives, suburban location, its proximity to public transport and the need to facilitate compact infill development in accordance with Policy Objective QHSN10 of the Development Plan.

#### **7.4. Standard of Accommodation Proposed**

- 7.4.1. The Local Authority and Third Parties raised no concern in relation to the standard of accommodation that the proposed units or No. 122 would provide. Six of the 4-bed terraced units measure 194 sq m, while units 1 and 8 measure 182 sq m. Whilst the type of units are limited, I consider this to be acceptable having regard to the size of the site. The units have a conventional layout and are consistent with the Quality Housing for Sustainable Communities-Best Practice Guidelines for Delivering Homes Sustaining Communities (2007) (see the Housing Quality Assessment submitted with the RFI Response). I am also satisfied that the proposed houses contain adequate space in terms of individual/aggregate living areas, individual/aggregate bedroom areas, and storage space. Six of the units (Nos. 2-7) have internal lifts providing universal access to future occupants. Bicycle and bin storage would be provided with the curtilage of the dwellings.
- 7.4.2. Due to the size, layout and orientation of the proposal, I am satisfied that the units would receive acceptable daylight and sunlight. This is confirmed in the Daylight, Sunlight and Overshadowing Assessment (dated November 2021) that was submitted as part of the RFI Response. With regard to daylight within internal rooms, I note that BRE Guidance, with reference to BS8206 – Part 2, sets out minimum values for ADF that designers/developers should strive to achieve, which are 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. Average Daylight Factor (ADF) is the ratio of total daylight flux incident on the working plane to the area of the working, expressed as a percentage of the outdoor illuminance on a horizontal plane due to an unobstructed CIE standard overcast sky. The BRE guide does not give any advice on the targets to be achieved within a combined living/dining/kitchen area. However, BS guidance outlines that where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space combining a living room and kitchen, the minimum ADF should be 2%. The Applicant's assessment relates to unit 4, which was selected as a representative for the remaining units proposed. It found that the scheme is fully compliant with the BRE Guidelines, where applicable. A daylight/sunlight assessment has not been carried out for the remainder of the units. However, having regard to the results for unit 4 and the design and layout of the proposed units I consider that there

will be a satisfactory level of ventilation, daylight, and sunlight for the prospective occupants.

- 7.4.3. With respect to the sunlight received by the rear private gardens of the proposed units, the Applicant's analysis states that 64.83% of the amenity spaces for units 1-4 and 63.04% of the amenity space for units 5-8 will receive at least 2 hours of sunlight on March 21<sup>st</sup>. This equates to 64% of the total space and as such is in accordance with the BRE Guidelines. Having regard to the foregoing, I consider this matter to be acceptable.
- 7.4.4. As outlined earlier, the Local Authority raised concerns in relation to the size of the rear gardens in the original layout. Section 15.11.3 (Private Open Space) of the Development Plan states "*Generally, up to 60-70 sq. m. of rear garden area is considered sufficient for houses in the city*". As part of the RFI Response, the Applicant increased the rear garden sizes of units 2-8 by extending them one metre onto the rear laneway. The rear gardens now measure between 53 sq m and 68 sq m. In addition, each dwelling will have a 7 sq m front terrace. As such, I am satisfied that sufficient private open space has been provided for the future occupants of the units.
- 7.4.5. The proposed development does not include for the provision of any public open space, but does include communal open space (38 sq m) with a timber bench to the front of the units. I concur with the Local Authority that having regard to the scale of the development and the quantum of public open space in the vicinity, including Herbert Park and Sandymount Strand, that the scheme is acceptable in this regard.
- 7.4.6. In conclusion, I am satisfied that the proposed development would provide an acceptable level of residential amenity for the prospective occupants, both in terms of internal floorspace and external amenity space and facilities. Accordingly, I have no objections in this regard.

## 7.5. Access and Traffic

- 7.5.1. The proposal includes for a new shared vehicular carriageway (5m wide) accessed off Merrion Road through No. 122 to the proposed eight dwellings. A vehicle entrance off this shared carriageway is proposed to serve No. 122 (see Dwg. No. K63 PL012). The Third-Parties argue that the creation of an additional junction on the R118 is inappropriate and will lead to traffic congestion. As highlighted in the Applicant's Traffic and Transportation Statement, the proposal would generate very low levels of traffic

during the weekday AM and weekday PM commuter peaks and during a normal 24-hour period. As such, the analysis concluded that the proposal would have a negligible and unnoticeable impact on traffic conditions. Having regard to the size and nature of the proposal (i.e. eight new dwellings), I consider the analysis to be reasonable. The proposal would operate in the same manner as the existing entrance to No. 122 and as such would not conflict with bus speeds or cycle lane usage (albeit that the entrance would now serve nine dwellings). The proposed shared carriageway is 5m wide and as such is consistent with DMURS in relation to “Carriageway width for Local streets with a shared surface carriageway” (DMURS - Figure 4.55 Carriageway Widths). Dwg. No. NRB-TA—002 illustrates swept path analysis for a refuse vehicle to service the new units. Furthermore, I note that the Local Authority’s Transportation Division had no objection to the proposal, subject to condition. I note that the entrance to the new units would be gated. Section 15.8.10 (Gated Communities) in the Development Plan states that there is a general presumption against such schemes in order to promote permeability and accessibility in the urban area. However, there is no throughway on the site and as such, it would have no impact on permeability and accessibility in the area (Shrewsbury Park is a gated complex). I note that the Road Safety Audit (November 2021) identified no safety issues. As such, I consider that the scheme is acceptable in this regard. I note that the Local Authority raised no concern in relation to this aspect of the scheme.

7.5.2. Concern has been raised in relation to development on the rear laneway. As illustrated on the Site Layout Plan (Dwg. No. K63 PL002 A), access to the vehicular and pedestrian points along the laneway would be maintained, in addition to the existing width as far as the rear garden of unit 2. I note from my site visit that the laneway would appear to be infrequently used. The proposed development includes for the upgrading of the laneway. Similar to the Local Authority, I consider that this matter can be addressed by way of condition. Notwithstanding this, 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.

7.5.3. The proposed development includes for one car parking space per dwelling and two visitor/communal spaces. This is in accordance with the Development Plan's policy to permit a maximum of one car parking space per house in Zone 2 (Map J) of the city. In terms of the additional two spaces, I consider these to be acceptable and would help alleviate any 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. Bicycle parking would be provided within the curtilage of the dwellings and two short-term spaces are provided to the open space area in front of the units.

## 7.6. Other Matters

7.6.1. The 'Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities' (May 2021) identify planning conditions to which planning authorities and the Board must have regard to in granting planning permission for new residential development including housing and/or duplex units (5 or more units). This is intended to prevent the bulk-purchase for market rental purposes by commercial institutional investors. The proposed development includes eight dwelling houses, and as such, I consider that a condition restricting the occupation of the units to individual purchasers should be attached if planning permission is granted by the Board.

## 8.0 Appropriate Assessment

8.1.1. The proposed development involves the modifications to No. 122 and the construction of eight dwellings on a site area of 0.484ha. It is proposed to connect to the existing surface water and wastewater network serving the area. The surrounding area is predominantly composed of artificial surfaces but also includes large gardens and is principally characterised by residential development.

8.1.2. None of the submissions or observations received in connection with the application or the appeal have raised the issue of Appropriate Assessment.

8.1.3. The nearest Natura 2000 sites are in the Dublin Bay area and include the South Dublin Bay and River Tolka Estuary SPA and the South Dublin Bay SAC (both c.800m to the east). I acknowledge that there are several other Natura 2000 sites in the wider

surrounding area, including more distant sites within Dublin Bay. Having carried out AA screening for other developments in the Dublin city area I am conscious that the development is indirectly connected to the Natura 2000 sites within Dublin Bay via the surface water and foul water networks. However, the existence of these potential pathways does not necessarily mean that potential significant impacts will arise.

- 8.1.4. With regard to surface water, the development incorporates appropriate management measures to regulate discharge flows in terms of quantity and quality. There is also limited potential for surface water contamination during construction works but I am satisfied that best-practice construction management will satisfactorily address this matter. There would be significant dilution capacity in the existing drainage network and receiving water environment and there is known potential for the waters in Dublin Bay to rapidly mix and assimilate pollutants. Accordingly, I am satisfied that there is no possibility of significant impacts on European sites within Dublin Bay from surface water pressures from the development.
- 8.1.5. The wastewater emissions from the development will result in an increased loading on the Ringsend WWTP. However, having regard to the limited scale of the development and the associated discharges; the 'unpolluted' EPA classification of the coastal waters in Dublin Bay and the dilution capacity of these waters; and the likely completion of the Ringsend WWTP extension in the short term, I am satisfied that there is no possibility that the additional foul water loading resulting from the development will result in significant effects on European sites within Dublin Bay.
- 8.1.6. Having regard to the above preliminary examination, it is concluded that no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site. No mitigation measures have been relied upon in reaching this conclusion. I note that the Applicant submitted a Screening Report, prepared by Openfield Ecology, which came to the same conclusion (i.e. Stage 2 AA is not required).

## 9.0 Recommendation

- 9.1. I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

Having regard to the pattern and character of existing development in the area, the design and scale of the proposed development, and the provisions of the Dublin City Development Plan 2022-2028 including policy objectives QHSN6, QHSN10 and QHSN04 and Section 15.5.2 (Infill Development), it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, would provide an acceptable standard of residential amenity for the prospective residents, would not seriously injure the residential amenity of surrounding properties, and would not endanger public safety or convenience by reason of traffic generation or otherwise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<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 to the planning authority on the 3<sup>rd</sup> day of December, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity</p>
2.	<p>The side perimeter walls (i.e. the north-west and south-east facing elevations) of the second floor terraces of house No.1 and No.8 shall be of solid brick construction.</p> <p>Reason: In the interests of residential amenity of the adjoining properties.</p>

3.	<p>Access to the ground and first floor level roofs of the proposed units shall only be permitted for necessary maintenance of the roof or windows, and shall not be used for amenity purposes without a separate grant of permission.</p> <p>Reason: To protect the residential amenities of adjoining residential properties and to protect the visual amenities of the area.</p>
4.	<p>Vehicular access or car storage shall not be permitted on the laneway to the north of the site. Laneway access shall be restricted to pedestrian, cyclist or maintenance access for the development. Existing vehicular access to adjacent dwellings off the laneway shall be maintained.</p> <p>At the vehicular access point to the development on Merrion Road, the public footpath shall be continued at a raised level across the site entrance and exit, but shall be ramped and dropped as necessary to facilitate car entry/exit. Measures shall be implemented including contrasting materials, signing and road markings to ensure that vehicles entering/leaving the development are aware that pedestrians/cyclists have priority across the site entrance and that vehicles must yield right-of way. Details of the proposed entrance arrangements shall be agreed with the Local Authority to the completion of the development.</p> <p>One car parking space shall be permanently allocated to each residential unit and numbered as such. Car parking spaces shall not be sold, rented or otherwise sub-let or leased to other parties.</p> <p>All of the in-curtilage car parking spaces serving the residential units shall be provided with electric connections to the exterior of the houses to allow for the provisions of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of traffic safety and sustainable transportation.</p>
5.	<p>The landscape scheme accompanying the application shall be implemented fully in the first planting season following completion of the development, and</p>



	<p>any trees or shrubs which die or are removed within 3 years of planting shall be replaced in the first planting season thereafter. (The landscape scheme shall have regard to the Guidelines for Open space Development and Taking in Charge, copies of which are available from the Parks and Landscape Services Division.</p> <p>Reason: In the interests of amenity, ecology and sustainable development.</p>
6.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
7.	<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>
8.	<p>Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
9.	<p>Proposals for a development name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and house numbers shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements / marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>
10.	<p>Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority</p>

	<p>prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p>Reason: In the interests of public safety.</p>
11.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
12.	<p>The management and maintenance of the proposed shared carriageway following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for its future maintenance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
13.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.</p> <p>Reason: In the interest of residential amenities of surrounding properties and in the interest of clarity.</p>
14.	<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, management measures for noise, dust and dirt, construction traffic management proposals, and details of how the trees on the public realm corner of Merrion</p>

	<p>Road and Ballsbridge Park/Avenue will be protected during the construction of the project.</p> <p>Reason: In the interest of public safety and residential amenity.</p>
15.	<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.</p> <p>Reason: In the interest of sustainable waste management.</p>
16.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>

17.	<p>Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
18.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>
19.	<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 of the terms of the Scheme shall be agreed between the planning authority</p>

	<p>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

13<sup>th</sup> February 2023