



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316087-23

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<b>Development</b>	Demolition of dwelling, construction of 22 dwellings and all associated site works
<b>Location</b>	Baggotrath House, Newbridge Avenue, Sandymount, Dublin 4 (including 11 Newbridge Drive, Sandymount, Dublin 4, D04 C9Y5)
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	5480/22
<b>Applicant(s)</b>	Walthill Properties Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant, subject to conditions.
<b>Type of Appeal</b>	Third Party.
<b>Appellant(s)</b>	Brendan Kinsella. Eamonn Hughes and others. Stephanie Taheny and others.
<b>Observer(s)</b>	None.

**Date of Site Inspection**

1<sup>st</sup> February 2024.

**Inspector**

Terence McLellan

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## 1.0 Site Location and Description

- 1.1. The appeal site refers to the irregularly shaped plot located off Newbridge Avenue, approximately 500m to the north west of Sandymount village centre. The site measures approximately 0.49 hectares and is currently occupied by a large, vacant, single storey dwelling with a two storey rear addition, known as 11 Newbridge Drive. This house is positioned in the north east corner of the site, close to a secondary (and now blocked) access from the short cul-de-sac of Newbridge Drive. A small container style office sits to the front of the existing dwelling.
- 1.2. The existing dwelling sits within extensive garden ground with some small glasshouses and cold frames in various states of repair. Site boundaries are marked by stone and block walls and there are a number of mature trees around the site, particularly along the eastern and southern boundaries. The north west pocket of the site is particularly overgrown.
- 1.3. A two-way, single vehicle access lane from Newbridge Avenue is the principal site entrance. This laneway also provides access to Fairfield House, The Chalet apartments (1.5 storey), and Baggot Rath House apartments (4 storey). These properties all sit to the south of the tree lined access lane, with Baggot Rath House apartments and the associated parking area being located on land within the blue line boundary.
- 1.4. The recessed two storey terraced dwellings and rear garden ground of nos. 2-10 (even) Newbridge Avenue mark the north/west site boundaries. No. 2 Newbridge Avenue benefits from an existing pedestrian access to the parking area at Baggot Rath House, including a parking space. Further properties on the northern boundary of the site include the detached and semi-detached two storey dwellings at nos.1-10 (inclusive) Newbridge Drive to the north of the site. The entirety of the eastern boundary is marked by the dwellings on Tritonville Road which generally rise to between two and three storeys with rear returns. The two storey terraced dwellings on Lansdowne Square are located to the south of the site as is the substantial rear garden of no. 14 Herbert Road.

1.5. Newbridge Avenue has controlled parking, with pay and display arrangements in operation. The nearest bus stop is approximately 500m walk on Sandymount Road which is served by Dublin Bus routes 47, C1 and C2. Lansdowne Road DART station is located approximately 350m walk to the south west of the site.

## 2.0 Proposed Development

2.1. Planning permission is sought for the demolition of No.11 Newbridge Drive and redevelopment of the site to provide a total of 22 new homes comprising:

- 12 no. three bedroom (with study), three storey terraced dwellings.
- 1 no. four bedroom, two storey detached dwelling.
- 1 no. three bedroom, part three/part single storey detached dwelling,
- 8 no. apartments including 2 no. one bedroom units (with study), 2 no. two bedroom units and 4 no. 3 bedroom duplex units in a single three storey block.

2.1.1. One dwelling would be accessed directly from Newbridge Drive and the remaining 21 dwellings would be accessed via the driveway from Newbridge Avenue where a passing bay would be provided. One parking space would be provided per unit. Bike and bin stores would be provided in addition to two areas of public open space (70.9sqm and 377.6sqm).

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. Notification of the Decision to Grant Permission was issued by Dublin City Council, subject to 21 generally standard conditions. Conditions of note include:

3.1.2. Condition 4 - requires amendments to the proposed development and reads as follows:

*a) House No. 20 shall be redesigned as a two-storey dwelling only.*

*b) House no. 21 shall be reduced in size to allow for a minimum separation distance of 4.5m between the house and the eastern boundary wall.*

*Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings.*

*Reason: In the interests of orderly development and visual amenity.*

3.1.3. Condition 11 relates to Part V provisions and requires the applicant to enter into an agreement with the Planning Authority.

3.1.4. Condition 19 relates to Archaeology and requires an Archaeological Assessment and associated documents/information prior to development taking place.

## **3.2. Planning Authority Reports**

3.2.1. The Planner's Report contains the following points of note:

- The report acknowledges that the majority of the site is zoned Z1: To protect, provide and improve residential amenities, and the remainder of the site is zoned Z2: To protect and/or improve the amenities of residential conservation areas. Residential is permitted in principle.
- The Planning Authority consider the density to be 50uph as opposed to the 55uph stated by the applicant as the applicant's calculation excludes the open space in the centre of the site.
- The report notes that the proposed site coverage and plot ratio are below CDP ranges but states that the proposed density of 50uph is considered appropriate for this backland site.
- Housing quality and unit mix are considered to be acceptable. The report notes that the private open space of some the dwellings is below development plan standards, but this is considered to be acceptable given the infill nature of the development.
- Impacts on surrounding residential amenity are generally considered to be acceptable subject to an amending condition (Condition 4) that would require house no. 20 to be limited to two storeys and house no. 21 to be reduced in

size to allow for a minimum separation distance of 4.5m between the house and the eastern boundary wall.

- Transport, parking, and cycle parking issues are considered to be acceptable, subject to conditions and the report raises no EIA or appropriate assessment issues.

### 3.2.2. **Other Technical Reports**

3.2.3. **Archaeology Section (09.02.2023):** The proposed development is adjacent to the Zone of Archaeological Constraint for the Recorded Monument DU018-056 (Bridge Site), which is subject to statutory protection under Section 12 of the National Monuments (Amendment) Act 1994. The site is also adjacent to a former distillery site which is listed on the Dublin City Industrial Heritage Record.

3.2.4. Due to the former shifting nature of the River Dodder which sits to the west of the site, archaeological material may survive across this area preserved in the riverine silts of former channels. The site may also contain evidence for warrening (the farming of rabbits in medieval and early modern times using artificially constructed mounds) or outbuildings connected with the distillery. A condition requiring an Archaeological Impact Assessment (including test trenching) is recommended.

3.2.5. **Drainage Division (24.01.2023):** No objection, subject to standard conditions.

3.2.6. **Environmental Health Officer:** No objection, subject to standard conditions.

3.2.7. **Transport Planning Division (10.02.2023):** The response notes that the access laneway is narrow and substandard in nature but that improvement works are proposed. These works include the removal of fencing and trees along the northern boundary of the lane, and the removal of a brick pier along the party wall with No. 1 Fairfield Court on the southern boundary.

3.2.8. It is noted that no consent has been provided by the other party for the removal of this pier. The works will allow for the provision of a passing bay, located on the northern side of the laneway in close proximity to the street access. Turning facilities are also noted within the proposed access road design and these are acceptable to the Transportation Division. Overall, there are no objections, subject to conditions including a Construction Management Plan, cycle parking, provision of EV charging, restrictions on sale/rent of car parking, compliance with Code of Practice.



### 3.3. Prescribed Bodies

- 3.3.1. Iarnród Éireann and Uisce Éireann were both consulted but no response was received.

### 3.4. Third Party Observations

- 3.4.1. A total of seven observations were made on the planning application, copies of which are on file for the Board's information. The observations generally raise similar issues to the grounds of appeal, in addition to flood risk, which are set out in Section 6 below.

## 4.0 Planning History

### *Subject Site*

- 4.1.1. **ABP Reference 308834/Planning Authority Reference 2925/20:** The Board refused permission in March 2022 for the redevelopment of the site to provide 18 new homes. The development was refused for the following reason:

1. Having regard to the provisions of the Dublin City Development Plan 2016 - 2021, to the Ministerial Guidelines, to the "Sustainable Residential Development In Urban Areas Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in May 2009, to the location of the proposed development on serviced and zoned lands within Sandymount, which has proximity to both public transport, the city centre and places of employment, where the minimum net density of 50 units is indicated and where maximum parking standards of one space per unit is recommended, it is considered, notwithstanding the size and disposition of the site, that the proposed development would provide an insufficient density of development at this location, which would constitute underutilisation of this residential zoned site, would be contrary to the relevant provisions of the Dublin City Development Plan 2016 - 2021 and would be contrary to the Ministerial Guidelines. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.1.2. **Planning Authority Reference 4146/19:** Permission was refused by Dublin City Council in November 2019 for the demolition of the existing dwelling and construction of eight new four bedroom homes. The development was refused for the following reason:

1. Having regard to the size of the site, its location relative to a Dart Station, the City Centre and employment hubs, the quantum of development proposed with a resultant residential density of 16 dwellings per hectare is not considered to be of a sufficiently high density as set out in Policy QH5 in the Dublin City Development Plan 2016-2022. The proposed development would therefore materially contravene a development objective set out within the City Development Plan 2016 – 2022 and would be contrary to the proper planning and sustainable development of the area.

*Adjacent Sites – 2 Newbridge Avenue*

4.1.3. **Planning Authority Reference WEB2073/23:** Permission was granted by Dublin City Council in February 2024 for amendments to the previously approved scheme (ref 2481/19). The approved amendments include:

- Changes to the red line boundary,
- Relocation of house towards the north west of the site.
- Increased house depth from 12.37m to 13.1m and width from 7.1m to 7.64m.
- Removal of the two storey stairway at the side of the house.
- Garden amenity space increased to 101sqm.
- Stonework finish changed to render and changes to layout of the openings through the building.

4.1.4. **Planning Authority Reference 2481/19:** Permission was granted in June 2019 for the demolition and removal of existing sheds, garden walls and outhouses to the rear and construction of a three bedroom detached, flat roofed two storey mews house. Development incorporates alterations to the boundary walls, landscaping, drainage works and ancillary and associated works.

## 5.0 Policy Context

### 5.1. Development Plan

#### **Dublin City Development Plan 2022-2028**

- 5.1.1. The majority of the site is within an area zoned Z1, the objective for which is to protect, provide and improve residential amenities. A small section of the site along the northern boundary, enclosed by the rear gardens on Newbridge Avenue and Newbridge Drive is zoned Z2, the objective for which is to protect and/or improve the amenities of residential conservation areas.
- 5.1.2. The site is adjacent to the Zone of Archaeological Constraint for the Recorded Monument DU018-056 (Bridge Site).
- 5.1.3. Chapter 3: Climate Action, contains the Council's policies and objectives for addressing the challenges of climate change through mitigation and adaptation. The relevant policies from this section include:
- CA3: Climate Resilient Settlement Patterns, Urban Forms and Mobility
  - CA8: Climate Mitigation Actions in the Built Environment
  - CA9: Climate Adaptation Actions in the Built Environment
  - CA24: Waste Management Plans for Construction and Demolition Projects
  - CA27: Flood Risk Assessment and Adaptation
- 5.1.4. Chapter 4: Shape and Structure of the City, sets out the Council's strategy to guide the future sustainable development of the city. The objective is to ensure that growth is directed to, and prioritised in, the right locations to enable continued targeted investment in infrastructure and services and the optimal use of public transport. The relevant policies from this chapter include:
- SC5: Urban Design and Architectural Principles
  - SC9: Key Urban Villages, Urban Villages and Neighbourhood Centres
  - SC10: Urban Density
  - SC11: Compact Growth
  - SC12: Housing Mix
  - SC13: Green Infrastructure
  - SC14: Building Height Strategy

- SC16: Building Height Locations
- SC19: High Quality Architecture
- SC20: Urban Design
- SC21: Architectural Design

5.1.5. Chapter 5: Quality Housing and Sustainable Neighbourhoods, seeks the provision of quality, adaptable homes in sustainable locations that meet the needs of communities and the changing dynamics of the city. The delivery of quality homes and sustainable communities in the compact city is a key issue for citizens and ensuring that Dublin remains competitive as a place to live and invest in. The relevant policies from this chapter include:

- QHSN1: National and Regional Policy
- QHSN2: National Guidelines
- QHSN6: Urban Consolidation
- QHSN10: Urban Density
- QHSN12: Neighbourhood Development
- QHSN17: Sustainable Neighbourhoods
- QHSN34: Social, Affordable Purchase and Cost Rental Housing
- QHSN36: High Quality Apartment Development
- QHSN37: Homes and Apartments
- QHSN38: Housing and Apartment Mix
- QHSN39: Management
- QHSNO11: Universal Design

5.1.6. Chapter 8: Sustainable Movement and Transport, seeks to promote ease of movement within and around the city and an increased shift towards sustainable modes of travel and an increased focus on public realm and healthy placemaking, while tackling congestion and reducing transport related CO2 emissions. The relevant policies of this section include:

- SMT7: Travel Plans for New and Existing Developments
- SMT25: On-street Parking
- SMT27: Car Parking in Residential and Mixed Use Developments

5.1.7. Chapter 9: Sustainable Environmental Infrastructure and Flood Risk, aims to address a broad range of supporting infrastructure and services including water, waste, energy, digital connectivity and flood risk/surface water management. The relevant policies of this section include:

- SI14: Strategic Flood Risk Assessment
- SI15: Site Specific Flood Risk Assessment
- SI22: Sustainable Drainage Systems
- SI25: Surface Water Management

5.1.8. Chapter 15: Development Standards, contains the Council's Development Management policies and criteria to be considered in the development management process so that development proposals can be assessed both in terms of how they contribute to the achievement of the core strategy and related policies and objectives. The relevant policies of Chapter 15 include:

- 15.4: Key Design Principles
- 15.5: Site Characteristics and Design Parameters
- 15.5.2: Infill Development
- 15.6: Green Infrastructure and Landscaping
- 15.7: Climate Action
- 15.8: Residential Development
- 15.9: Apartment Standards
- 15.13.4: Backland Housing

## 5.2. **Regional Policy**

### **Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031 (RSES)**

5.2.1. The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP) - and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. The RSES seeks to promote compact urban

growth, targeting at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

### 5.3. National Policy and Guidance

#### **Project Ireland 2040, National Planning Framework (2018) (NPF)**

5.3.1. The NPF addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration, and increased building heights.

#### **Section 28 Ministerial Guidelines**

5.3.2. Having considered the nature of the proposal, I consider that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2023).
- Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities (2024). The guidelines allow greater flexibility in residential design standards and cover issues such as open space, car and cycle parking, and separation distances.

### 5.4. Natural Heritage Designations

5.4.1. The site is not located in or immediately adjacent to any European sites. The nearest European sites include:

- South Dublin Bay SAC (site code 000210) 600 metres to the east.

- South Dublin Bay and River Tolka SPA (site code 004024) 2.6km east.
- North Dublin Bay SAC (site code 000206) 2.7km to north/northeast.
- North Bull Island SPA (site code 004006) 2.7km to north/northeast.

## 5.5. EIA Screening

- 5.5.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. Three Third Party Appeals have been submitted as follows:

- 6.1.2. **Stephanie Taheny of 91 Tritonville Road, Sandymount, Dublin 4 (including Mary O’Sullivan of no.89 Tritonville Road, and Conor Lahiff of no.93 Tritonville Road).**

- Garden sizes and separation distances are inadequate.
- The finished floor level of the houses has increased from 2.55m to 3.375m compared to the previous scheme which is more than 1m over the existing ground level to dwellings on Tritonville Road. This would result in overlooking and a loss of privacy.
- The development would have daylight/sunlight and overshadowing impacts to adjacent gardens due to the height of the proposed dwellings and proximity to boundaries.
- The development would result in increased overlooking (89, 91 and 93 Tritonville Road).
- Condition No.4 attempts to address some concerns but is insufficient as house no. 19 should be reduced to two storeys and house no. 21 should be

single storey. The rear gardens of these houses should also be increased in length.

- Ground floor levels of houses 19, 20, and 21 should be reduced to prevent overlooking.
- The scheme should revert to the previous design for the no. 12 terraced two storey houses and a bungalow, noting that the density of the proposal, which was previously an issue for the Board, would not be affected by this change.
- The development would breach development plan standards and the Residential Guidelines in relation to garden sizes and minimum distances.

**6.1.3. Eamonn Hughes and Catriona O'Neill of 6 Newbridge Drive, Sandymount, Dublin 4, (including Eimear O'Rourke of no. 8 Newbridge Drive). Statement prepared by Marston Planning Consultancy.**

- The development (apartments) would be visually dominant, obtrusive, and overbearing when viewed from 6 and 8 Newbridge Drive.
- The three storey scale would be located just 1.2m from the boundary and would be incongruous and monotonous.
- The terrace would be visually dominant, compounded by the loss of trees which will affect the setting of the site and reduce residential amenity.
- There is a lack of clarity on ground levels.
- Blank, overbearing facades as well as proximity would have an impact on amenity.
- The development would result in excessive overshadowing to rear gardens, the degree of loss is significant under the EIAR Guidelines.
- The Board should refuse or amend the development.
- The development would result in significant overlooking, compounded by the three storey form and inadequate internal balcony size. Winter gardens can be used all year round and increase the intensity of overlooking and loss of privacy. This impacts on the usability and quality of the affected rear gardens.
- The development would have a negative impact on the Z2 zoning objective of the area due to the poor quality layout and design of the scheme. The development would be contrary to the zoning objective.



- The proposed garden spaces for the dwellings are insufficient, poor quality (daylight/sunlight) and do not meet standards.
- Private open space for the duplex units is poor quality, internal, and not reflective of what a winter garden would be.
- Proposed parking is excessive and not justified.
- The form, bulk and massing are incongruous and fails to achieve quality urban design.
- The development provides minimal open space, contrary to the CDP.
- The development would have impacts on the structural integrity of adjacent properties and boundary walls. A survey of the boundary wall should be completed prior to development taking place and this should be a conditioned requirement.
- The development fails to meet density requirements.
- It is incumbent on the Board to reduce the scale of the apartment block due to the various amenity impacts.

**6.1.4. Brendan Kinsella of 2 Newbridge Avenue, Sandymount, Dublin 4. Statement prepared by Harcourt Architects.**

- The application relies on land that is not within the ownership of the applicant, the appellant owns a parking space and has a right of way which is being used by the applicant to achieve access to the site.
- There is no letter of consent from the owner, this is contrary to section 5.13 of the Development Management Guidelines.
- There is an intention to increase the width of the main access laneway but there is no agreement with the owner of No. 1 Fairfield Court to remove the pier on the party boundary as referred to in the Traffic and Transport Report.
- The proposed access cannot support the intensification of vehicular and pedestrian use arising from the development.
- The minimum 4.8m clearance is not available within the applicant's ownership.
- Lack of pedestrian facilities. It is below the minimum width for a shared surface and there would be pedestrian vehicle conflict.

- A passing bay is not achievable on the basis that the width necessary for same is not physically available. The width of the lane at the location of proposed passing bay at 4.35 metres, is completely deficient and does not comply with DMURS allowing for 2 vehicles to pass.
- A passing bay, even if adequately sized and located in the position indicated, would not mitigate the issues raised but would give rise to traffic hazards.
- The access from Newbridge Avenue is 1 way regardless of existence of a passing bay. Vehicles waiting to enter the site from Newbridge Avenue will cause a traffic hazard.
- If vehicles meet on the lane, it is highly probable that one would have to reverse which runs the risk of collision with other vehicles.

## 6.2. Applicant Response

6.2.1. A response to the grounds of appeal has been submitted by McCutcheon Halley Planning Consultants on behalf of the applicant. The response can be summarised under relevant headings as follows.

### 6.2.2. Separation Distances and Private Open Space

- The CDP refers to traditional back to back separation distances for housing, does not set absolute requirements, and a discretionary approach can be taken.
- Separation distances between the first floor windows of the proposed development and the dwellings on Tritonville Road would generally all exceed 22m.
- House 21 has no upper floor windows and is conditioned to be set back 4.5m from the boundary wall to give a 20m separation distance to 93 Tritonville Road. An updated drawing has been provided to demonstrate this.
- The shortfall in private open space for houses 19 and 20 is noted and there is justification for the shortfall based on national policy, the site's location close to green infrastructure and amenity spaces, the generous sized units,

the provision of public open space on site, compliance with daylight and sunlight standards in all gardens, the infill nature of the site.

### 6.2.3. Design and Density

- The scheme reflects an efficient use of the lands in terms of density and layout.
- The materials and design make a positive contribution to the locality, creating a sense of place with its own identity.
- Finished floor levels have been determined by service and utility requirements and levels slope downwards to contain run-off within the site.
- The wider Baggot Rath House site has been developed over time, when including the previously completed development the density would rise to 65uph.
- The required minimum 50uph density is being met, even when including the open space in the calculation.
- The appellant's suggestion that the northern units be removed would reduce density to too low a level, taking into account the previous appeal decision.
- The form, scale and massing are considered to achieve the optimum balance for the site.

### 6.2.4. Height

- The height of the dwellings has no impact on daylight/sunlight, which would remain BRE compliant.
- Separation distances are acceptable to ensure no significant adverse impact on amenity.
- The backland infill nature of the site will impact the outlook of some properties, but the scheme has been designed with consideration to third party impacts.
- The applicant will accept a condition, given by DCC, to reduce the height of house 20.
- The Building Height Strategy indicates 3-4 storeys for this area.
- The proposed three storey duplex apartments are a direct response to increasing density on the site.

- The height responds to the existing built form.

#### 6.2.5. Overshadowing

- The daylight and sunlight assessment demonstrates that there would be no significant impact in terms of overshadowing as a result of house 21 impacting on no. 93 Tritonville Road.
- The applicant will accept the condition imposed by DCC requiring house 21 to be reduced in size with an increased set back from the boundary.
- The development would have a negligible impact on the outdoor spaces and windows on Newbridge Drive.

#### 6.2.6. Overlooking

- Separation distances at first floor level are sufficient to ensure that there would be no overlooking of nos. 89, 91, and 93 Tritonville Road.
- Appropriate conditions have been applied to amend the development to preserve amenity and privacy.
- Finished floor levels are noted and the separation distances, together with the boundary fence will preserve amenity and privacy from ground floor windows.
- The apartments have been designed to avoid overlooking of neighbouring properties and areas.

#### 6.2.7. Zoning

- The provision of residential is in line with both the Z1 and Z2 zoning objectives of the site.
- Views of the duplex apartment block would not be available from public roads and the streetscape would not be affected.
- The visual changes are considered to be in character with the evolving urban landscape and scale of development in the area and would not adversely impact on character of nearby Z2 zoned lands.

#### 6.2.8. Laneway Ownership

- All lands within the red line boundary are within the ownership of the applicant.

- The proposal would not affect Mr Kinsella's parking space or access to his property. This is the same as the previous appeal where the conclusion reached on the matter is still applicable.
- Agreement on the removal of a brick pier is intended to be reached with the owner of 1 Fairfield Court subsequent to the grant of permission.

#### 6.2.9. Laneway Access

- The laneway is self-regulated and is a low speed environment.
- The development would increase the number of vehicles using the lane, but not significantly.
- The CDP encourages the redevelopment of these sites and discourages multiple vehicle access points.
- The previous access arrangements were considered acceptable by the Board.

#### 6.2.10. Car Parking and Cycle Parking

- The proposed level of parking is in line with the maximum provision of the CDP. The site is well located for public transport and there are car club schemes available.
- The surrounding area has controlled car parking and as such there should be no issue of residential parking demand from the development impacting on surrounding streets.
- Cycle parking is provided for in the development and required by condition.

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

- 6.3.1. The Planning Authority request that the Board uphold the decision to grant permission and request that conditions be applied regarding development contributions, payment of a bond, payment in lieu of open space, Part V, street naming/numbering, management company and a section 47 condition.

### 6.4. **Observations**

- 6.4.1. None.

## 6.5. Further Responses

6.5.1. None.

## 7.0 Assessment

7.1.1. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

- Zoning
- Quantum of Development
- Design and Amenity
- Housing Quality
- Transport
- Other Matters
- Appropriate Assessment

## 7.2. Zoning

7.2.1. The site benefits from two zoning designations. The majority of the site is within an area zoned Z1 in the CDP, the objective for which is to protect, provide and improve residential amenities. The smaller north west pocket of the site that is enclosed by the rear gardens on Newbridge Avenue and Newbridge Drive is zoned Z2, the objective for which is to protect and/or improve the amenities of residential conservation areas. In both instances, residential use is permitted in principle. I am therefore satisfied that the proposal is compliant with the zoning objective in land use terms, and I will address design and amenity separately.

## 7.3. Quantum of Development

7.3.1. The grounds of appeal raise concerns that the proposal does not accord with the density requirements of the development plan. The Board previously refused planning

permission on this site on the basis that the 35uph proposal did not represent a sufficient density of development for these serviced and well connected lands. The current CDP does not set an upper density limit. The Compact Settlement Guidelines indicates a minimum density of 50uph for well-connected urban neighbourhoods.

7.3.2. The applicant considers the proposal to achieve a density of 55uph. However, this relies on carving out the public open space within the centre of the site. Whilst I accept that the access laneway should be carved out of the site area calculation, I agree with the Planning Authority that the open spaces is central to the proposed development and should be included within the site area for the density calculation. On this basis, the proposal would achieve a density of 50uph which I consider to be acceptable and in line with the objectives of national policy.

7.3.3. I note that plot ratio (0.78) and site coverage (36%) are slightly below the recommended ranges set out in the CDP. However, given the backland nature of the site and the need to ensure that redevelopment respects the existing character, context, and urban form of the surrounding area, as well as ensuring the protection of existing and future amenity, I am satisfied that the overall quantum of development being proposed is acceptable.

#### 7.4. **Design and Amenity**

7.4.1. The grounds of appeal raise various design related issues, notably that the proposed development is too tall, visually dominant, and obtrusive. It is argued that the development has been poorly designed due to the use of some blank facades, and that the apartments in particular are inappropriately located close to the boundary, and that they would be incongruous and monotonous. Amenity concerns include that separation distances are insufficient, and that the development would result in overlooking, loss of privacy, loss of daylight, overshadowing, and be overbearing.

##### *Height, Scale, and Massing*

7.4.2. At the outset I would acknowledge concerns raised in the grounds of appeal regarding finished floor levels. Existing levels at the site range from 1.64m to 3.13m (AOD) and the proposed finished floor levels at the site would range from 2.45m to 3.375m (AOD). The applicant has stated that the finished floor levels have been increased in order to accommodate foul and surface water drainage connections. In my opinion the increased FFL is not so significant that it raises design or amenity concerns and

information regarding heights above ground and heights AOD have been provided to allow a full assessment to take place.

- 7.4.3. The central terrace of 12 dwellings would have a ridge height of 11.85m when measured from ground level at the front of the property, and approximately 12.85m when measure from ground level at the rear taking into account the change in levels that slope downwards towards the eastern boundary. Ridge height AOD would be 15.23m. The apartment block would have a total height of 10.87m above ground level (13.97m AOD) when measured at the front, whilst the detached dwellings would have heights of 9.99m and 9.43m above ground (12.44m AOD and 12.80m AOD).
- 7.4.4. The surrounding area is generally characterised by two and three storey dwellings, in addition to the four storey apartment block at Baggot Rath House. In my opinion, whilst the proposed dwellings and apartment block are taller than some of the immediately surrounding properties, the increase above the prevailing heights is not significant and I do not consider that the development would be too tall, visually dominant or obtrusive.
- 7.4.5. I accept that, to date, surrounding occupiers have enjoyed an unencumbered outlook over the site and that the level of change to their outlook would, in many respects, be significant, however, I consider that these changes are typical of the immediate urban setting and scale of surrounding development, and that acceptable levels of outlook would remain for the urban context.
- 7.4.6. I am also satisfied that the proposed development would be acceptable in detailed design terms, taking into account the proposed architectural treatment and materials. In my opinion, the proposal would not be of a style or character that would be at odds with the surrounding built form, which is varied in character.

#### *Overbearance*

- 7.4.7. Specific concerns are raised that the development would be overbearing on the properties along Tritonville Road and Newbridge Drive.

#### *Tritonville Road*

- 7.4.8. House nos. 9-20 form the main terrace of proposed dwellings adjacent to the boundary with Tritonville Road. These dwellings would have an eaves height of approximately 9m when measured from ground level at the rear. For the majority of this terrace (house nos. 9-18), the distance from the main rear wall of the proposed dwellings to



the boundary with the rear of the dwellings on Tritonville Road would be at least 12m and I am satisfied that these dwellings would not appear overbearing.

7.4.9. For house nos. 19 and 20 this distance reduces to approximately 10.4m and 8.5m respectively. The Planning Authority are satisfied that the impact from house no.19 would be acceptable but that the proximity of house no. 20 to the boundary could be overbearing and result in overlooking. For this reason, the Planning Authority have requested house no. 20 to be reduced to two storeys as part of Condition 4.

7.4.10. I will address the matter of overlooking separately. However, I am of the opinion that an eaves height of approximately 9m in combination with a separation distance from the boundary of between 9m and 8.5m, would not be particularly overbearing to the adjacent properties on Tritonville Road (nos. 89 and 91), nor do I consider a reduction in height of house no. 20 to be necessary to make the development acceptable in planning terms.

7.4.11. Proposed house no. 21 would be positioned at the southern end of the site. This would be located adjacent to end of terrace house no. 20 and would be a detached, two storey dwelling with hip end roof. House no. 20 would have an eaves height of approximately 6.8m above ground, within 2.3m of the boundary with the rear garden of 93 Tritonville Road and an eaves height of 6.6m above ground within 1.3m of the boundary with the dwellings on Lansdowne Square.

7.4.12. The Planning Authority have requested amendments to this dwelling as part of Condition 4 in order to increase the separation distance from the boundary with 93 Tritonville Road to a minimum of 4.5m and the applicant has shown this as part of an amended drawing included in the response to the grounds of appeal. However, I do not consider house no. 21 to be particularly overbearing on the adjacent properties on Tritonville Road or Lansdowne Square due to the limited height of the eaves, the limited width of the dwelling and the depth of rear gardens. I am therefore of the opinion that the amendments sought by condition 4 are not necessary to make the development acceptable in planning terms.

#### *Newbridge Drive and Newbridge Avenue*

7.4.13. The proposed apartment block is designed with a double gable on the side elevations where it bounds the garden ground of nos. 4-10 Newbridge Drive to the north east, and no. 6 Newbridge Avenue to the south west. The ridge height of the double gable

rises to 11.2m and 11.5m above ground level, taking into account the change in levels below the ridge points. The valley gutter between the two gables rises to approximately 9.8m above ground with the front and rear eaves being 8m and 9m in height respectively. On the north east faced, the apartment block is positioned between approximately 2m and 1.6m from the boundary with the immediately adjacent rear gardens at nos. 6 and 8 Newbridge Drive, with the gardens of nos. 4 and 10 being offset. These gardens have a depth from the boundary of approximately 17m to the rear returns and 22m to the rear wall of the main dwelling. In my opinion, the height and extent of the apartment block on the boundary with Newbridge Drive, together with the depth of the rear gardens is sufficient to ensure that the building would not be overbearing. I note concerns regarding the blank façade, but in my opinion, this is important in preventing overlooking and does not significantly increase the perception of mass.

- 7.4.14. In terms of 6 Newbridge Avenue, the apartment block would be positioned at the rearmost section of the garden and would not be overbearing either on the dwelling or the garden ground. Nos 6, 8, and 10 Newbridge Avenue are also set at sufficient distances from the proposal, with a sufficient depth of rear garden, to ensure that the apartment block would not be overbearing.

#### *Overlooking*

- 7.4.15. The Compact Settlement Guidelines state that when considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.
- 7.4.16. The grounds of appeal raise concerns that there would be overlooking of the dwellings on Tritonville Road as well as overlooking from the proposed apartments to the dwellings on Newbridge Drive. In terms of the properties at nos. 89-93 Tritonville Road, the minimum 16m distance would be exceeded at both ground and upper floor levels,

with the ground floor separation distance to the rear returns being in excess of 21m and the upper level separation distance being in excess of 24m.

- 7.4.17. In terms of the relationship between house no.21 and 93 Tritonville Road, I note that there would be no first floor windows on the end elevation facing the garden of 93 Tritonville Road and that a separation distance of approximately 17.8m would be achieved in any event. Overall, I am satisfied that there would be no significant overlooking of the dwellings on Tritonville Road.
- 7.4.18. The apartment block also exceeds these separation distances when considering the interface between the proposed rear elevation and the dwellings at nos. 6, 8, and 10 Newbridge Avenue. The north east (side elevation) of the apartment block that immediately bounds the rear garden ground of the dwellings on Newbridge Drive has been designed without windows to ensure no loss of privacy. I note concerns raised in the appeal that amenity would be compromised as a result of the provision of winter gardens in lieu of balconies for the duplex apartments. The concern relates to the fact that winter gardens can be used all year round. In my opinion, whilst winter gardens do have the potential for year round use, they are more enclosed than a traditional balcony and as such I do not agree that they would be more impactful on the residential amenity of the adjacent properties on Newbridge Drive
- 7.4.19. Small windows are shown on the south west façade, adjacent to the garden of 6 Newbridge Avenue however these would overlook the rearmost part of the garden only and would not, in my opinion, compromise amenity subject to a condition requiring them to be obscure glazed and fixed shut.
- 7.4.20. House nos. 9 and 10 would face towards the rear garden of 10 Newbridge Drive. However, this would be at an oblique angle coupled with a sufficient separation distance to ensure that there would be no significant overlooking and, in my opinion, the relationship between the properties would be typical of a domestic setting.

*Daylight, Sunlight, Overshadowing*

- 7.4.21. The application was accompanied by a Daylight and Sunlight Assessment Report which assessed the impact of the development on adjacent properties in terms of Vertical Sky Component (VSC), Annual and Winter Probable Sunlight Hours (APSH/WPSH) and effects to Sun on the Ground (SOG). The following properties were assessed:

- 6-10 Lansdowne Square (VSC, SOG).
- Baggot Rath Chalet (VSC, APSH, WPSH, SOG).
- Baggot Rath House (VSC).
- Nos. 2-10 Newbridge Avenue (VSC, APSH, WPSH, SOG).
- Nos. 2-10 Newbridge Drive (VSC, APSH, WPSH, SOG).
- Nos. 71-95 Tritonville Road (odd) (VSC, APSH, WPSH, SOG).

7.4.22. I have reviewed the Daylight and Sunlight Assessment Report and note that all properties assessed for VSC (192 windows) and APSH (136 windows) would remain compliant with the BRE.

7.4.23. For WPSH, I note that 136 windows were assessed and that 124 would remain compliant with the BRE. The remaining windows are deemed by the consultant assessor as being not applicable due to the existing very low baseline figures which are set out below:

Property	Window	Existing WPSH (%)	Proposed WPSH (%)
8 Newbridge Avenue	A8B	0.00	0.00
73 Tritonville Road	73A	0.00	0.00
79 Tritonville Road	79A	0.08	0.00
	79B	0.08	0.08
83 Tritonville Road	83A	0.16	0.00
85 Tritonville Road	85B	0.00	0.00
	85C	0.16	0.08
87 Tritonville Road	87A	0.16	0.00
	87B	0.00	0.00
	87D	0.00	0.00
	87F	0.00	0.00
89 Tritonville Road	89D	0.16	0.00

7.4.28. Whilst I would disagree that the results are not applicable, I do acknowledge that, for these windows, the loss of WPSH would be limited to 0.16% in a worst case scenario, and in most instances, there would be a 0% change which would not be noticeable

given the very low baseline. I am therefore satisfied that there would be no significant impact on WPSH.

- 7.4.29. Additionally, all of the garden and amenity areas assessed for Sun on the Ground (SOG) would remain BRE compliant. Overall, I am satisfied that the development would not have a significant impact on neighbouring amenity in terms of a loss of daylight, sunlight or the creation of overshadowing.

#### *Structural Issues*

- 7.4.30. The appeal raises concerns that the development would impact on the structural integrity of adjacent properties and boundary walls. It is stated that a survey of the boundary wall should be completed prior to development taking place and that this should be a conditioned requirement of any permission issued. In my opinion, the proposed development is located a sufficient distance from adjacent properties to ensure that there would be no structural issues. Whilst parts of the development would be closer to party boundaries, it does not necessarily follow that there would be structural issues. In any event, these are civil matters to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

#### *Open Space*

- 7.4.31. The grounds of appeal state that the development would be deficient in terms of open space provision. The CDP has a requirement for 10% provision of public open space based on the site area. The Compact Settlement Guidelines also sets a minimum requirement of 10%. The site measures approximately 4,955sqm and for the purposes of calculating the open space requirement, I agree that it is reasonable to carve out the long access laneway and the carriageway of Newbridge Drive. On that basis the net site area is 3,977sqm and the proposed public open space provision would be 448.5sqm, equating to a provision of 11.2% which exceeds the minimum requirement of the CDP and the Guidelines and would, in my opinion, be acceptable. I note that the open space would be divided by an access road which is somewhat unavoidable given the shape of this backland site and the need to provide vehicular access. However, subject to appropriate hard and soft landscaping, I am satisfied that this could be a pleasant and well landscaped space providing amenity value to the immediate estate.

## 7.5. Housing Quality

7.5.1. Various issues are raised in the grounds of appeal with regards to the quality of accommodation being proposed. In general, these can be summarised as the private amenity space being insufficient and the new homes not meeting daylighting standards.

### *Private Amenity Space*

7.5.2. The Compact Settlement Guidelines sets out the minimum private open space standards for houses. Although referred to as three bedroom dwellings in the supporting documentation, the proposed terraced dwellings are effectively four bedroom homes as the study could easily be used as an additional bedspace. On that basis a minimum of 50sqm private amenity space is required. All of the dwellings would exceed this with the exception of the following three homes:

- No. 18 – 49.1sqm
- No. 19 - 45.7sqm
- No. 20 – 47.1sqm

7.5.3. I acknowledge that these three homes would fall below the minimum 50sqm requirement. However, in my opinion, the shortfall ranging from 4.3sqm to 0.9sqm is fairly minor, particularly in the context of the overall quality of accommodation being proposed, the need to ensure the efficient redevelopment of this infill site to an appropriate density, the provision of public open space within the site, and the proximity of the site to amenity areas such as the River Dodder and Sean Moore Park.

7.5.4. I note concerns raised in the appeal regarding the form and design of the winter gardens. In my opinion, the winter gardens are appropriately sized and orientated to maximise sunlight availability, particularly in the mornings and afternoons. I accept that traditional winter gardens would usually have some ability to remove/fold glazing panels to maximise ventilation of the space. In my opinion, the proposed windows provide sufficient opening ability to serve their function as winter gardens, however, should the Board consider it necessary, a condition could be imposed requiring an alternative window design that allows for full opening/removal.

### *Daylight*

7.5.5. The grounds of appeal raise concerns that the proposed homes would not meet daylight standards. In assessing daylight and sunlight for the proposed new homes and garden ground, the Daylight and Sunlight Assessment Report considers the following tests:

*Sun on Ground (SOG): Proposed Outdoor Amenity Areas*

7.5.6. All of the amenity areas assessed would comply with the BRE guidance, with the exception of the proposed dwelling at 11 Newbridge Drive. This dwelling would have two gardens. One garden would be located to the west and would be a smaller side garden. The other more substantial garden would be located to the east and would form the main amenity space for this property. The result show that the main amenity space, the east garden, would be compliant with the BRE. The smaller west garden would not comply, but in my opinion, this is acceptable given the compliance of the main garden amenity space.

*Sunlight Exposure (SE)*

7.5.7. This test assesses sunlight exposure to all rooms/units. BRE 209 recommends that a space should receive a minimum of 1.5 hours direct sunlight between 1<sup>st</sup> February and 21<sup>st</sup> March. A medium level of sunlight is classed as three hours and a high level of sunlight is classed as four hours. At least one habitable room should meet the minimum criteria for a dwelling to be considered compliant. The assessment has been undertaken with trees in place and a further scenario with trees removed. The assessment demonstrates that all of the proposed units would comply with the guidance in both tree scenarios and would achieve high sunlight exposure with at least one room per unit having at least 4 hours direct sunlight.

*Spatial Daylight Autonomy (SDA)*

7.5.8. This study has assessed the Spatial Daylight Autonomy (SDA) received in all habitable rooms within the proposed development, looking at the 101 habitable rooms across the 22 proposed units. 94 habitable rooms would meet the criteria for SDA set out in BRE 209 which is a compliance rate of 93%. When undertaking this assessment without trees, 100% of the rooms would comply. This indicates that the retained trees are impacting on daylight, however, this needs to be balanced against the amenity value of retaining trees and overall, I am satisfied that the 93% compliance rate with retained trees is acceptable.

7.5.9. A further study has been undertaken, based on the requirements of I.S EN17037 which has higher daylighting requirements than BRE 209. Under this assessment, 72 of the 101 habitable rooms would comply with the enhanced requirements of I.S EN17037, with a compliance rate of 71%. Whilst I acknowledge that the remaining 29 rooms would be technically non-compliant, I am satisfied that this is acceptable considering full compliance with BRE 209 in terms of sunlight exposure, spatial daylight autonomy and daylight distribution. It is therefore my considered opinion that the proposed homes and garden ground would be well lit and that an appropriate level of amenity would be provided.

#### *Bin Store*

7.5.10. Whilst not raised in the grounds of appeal, I note the location of the bin store close to the frontage of house nos. 9 and 10. This bin store would measure 2.6m in height and just over 5m in width within 3m of the main frontage of house nos. 9 and 10. In my opinion, this bin store would be better located elsewhere within the site where it would have less of an impact on the proposed homes as well as less of an impact on existing homes, such as 10 Newbridge Drive which it directly abuts. There are various potential options/locations within the site, and I am satisfied that this can be dealt with appropriately by way of a condition.

### **7.6. Transport**

7.6.1. Various issues are raised in the grounds of appeal regarding parking and access, notably that the proposed parking is excessive and that the existing access laneway from Newbridge Avenue cannot support the intensification of vehicular and pedestrian use arising from the development. Further concerns relate to the provision of a passing bay which it is claimed would not achieve the width required by DMURS and that works to the lane rely on works that are not within the applicant's ownership.

7.6.2. It is argued that the width of the lane at the location of proposed passing bay would be deficient and even if adequately sized and located in the position indicated, would not mitigate the issues raised and would result in a traffic hazard due to the need for traffic to queue, vehicles having to reverse, and resulting conflict with pedestrians.

#### *Access and traffic*



- 7.6.3. The existing laneway from Newbridge Avenue would serve 21 of the 22 new dwellings, with one dwelling being accessed directly from the cul-de-sac of Newbridge Drive. The number of homes served by the access would therefore increase by 21.
- 7.6.4. The proposal includes the provision of a passing place on the laneway, close to the entrance from Newbridge Avenue, increasing the width at this location to approximately 4.3m which would generally allow two cars to pass. The laneway is a low speed environment and due to the straight route, there is good visibility along its length between the entrance and where it opens up to the parking area at Baggot Rath House, minimising the potential for vehicle or pedestrian conflict. The provision of a passing bay is, in my opinion, an appropriate intervention to provide improved access to the site, and I note that the Council's Transport Planning Division raised no objections.
- 7.6.5. The site is well located for public transport (buses and DART) as well as the services of Sandymount Village Centre and the employment areas of the Docklands. As such, I am satisfied that the accessible nature of the site lends itself to the promotion of active and sustainable travel measures and I am satisfied that the trip generation from the development would not have any significant material impact on the local road network or the key junctions. On that basis I do not consider that the development would result in the creation of a traffic hazard, either within the site or at the main junctions surrounding the entrance.

#### *Parking*

- 7.6.6. Concerns raised in the appeal that the proposed parking would be excessive are, in my opinion, unfounded. The development would provide the equivalent of one parking space per dwelling which is in line with CDP policy which sets maximum standards as opposed to minimum standards. In this context, the proposed parking provision meets but does not exceed the maximum standard.

#### *Ownership and Legal Issues*

- 7.6.7. The appeal by Mr Kinsella raises issues that the development would rely on land that is not within the ownership of the applicant, notably that Mr Kinsella owns a parking space and has a right of way which is being used by the applicant to achieve access to the site. Mr Kinsella's parking space is located within the group parking area opposite Baggot Rath House apartments. The proposed development does not

include any changes to this area, nor does it amend the access at this part of the site. I am satisfied that Mr Kinsella's parking would not be affected.

- 7.6.8. Further concerns relate to the intention to increase the width of the main access laneway by providing a passing place without agreement with the owner of No. 1 Fairfield Court to remove the pier on the party boundary. The applicant has stated that they intend to reach agreement with the relevant party, subsequent to planning permission being granted. In any event, I am satisfied that this is a civil matter, relating to a party boundary, to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

## **7.7. Other Matters**

- 7.7.1. The issue of flooding and surface water drainage was raised in observations on the planning application. The application is accompanied by a Site Specific Flood Risk Assessment which notes that the site is within Flood Zone. The site benefits from a flood defence scheme, including the flood defences of the River Dodder and finished floor levels would be above the 1 in 100 year level. The site will benefit from a surface water drainage network designed to manage discharge of storm water from roofs and the car park/pedestrian areas of the development which will contain the 1 in 100 year event plus an addition 20% allowance for climate change.
- 7.7.2. The flood risk assessment details that the provision of permeable paving, road gullies at low points in the road and a soakaway system will prevent future pluvial flood occurrences within the design parameters applied to the proposed surface water network and will also restrict overland flow within the proposed development. Site levels have been raised in areas that would previously have been subjected to pluvial flooding in order to direct drainage by gravity to the proposed mains within the access roads. Appropriate drainage will be installed within these areas to ensure they are positively drained to the wider surface water network of the proposed development. As such, the proposed development will have no impact on flood risk elsewhere. I note that Council's Drainage Division raised no objections to the proposed development, and I am satisfied with the provisions of the Site Specific Flood Risk Assessment.

## **7.8. Appropriate Assessment**

*Compliance with Article 6(3) of the Habitats Directive*

7.8.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

*Background on the Application*

7.8.2. The application is accompanied by Stage 1 AA Screening Report prepared by McCutcheon Halley dated December 2022. It was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.

7.8.3. The conclusion of the report is that the development, either alone or in combination with other plans and projects, poses no risk of likely significant effects on Natura 2000 sites and, therefore, does not require progression to Stage 2 Appropriate Assessment.

7.8.4. Having reviewed the documents and submissions I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

*Screening for Appropriate Assessment- Test of likely significant effects*

7.8.5. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European site(s).

7.8.6. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

*Brief description of the development*

7.8.7. The applicant provides a description of the project in Section 4 of the screening report and is as described in section 2 above. In summary, the development comprises redevelopment of the site to provide a total of 22 new homes including:

- 12 no. three bedroom (plus study), three storey terraced dwellings.
- 1 no. four bedroom, two storey detached dwelling.
- 1 no. three bedroom, part three/part single storey detached dwelling,

- 8 no. apartments including 2 no. one bedroom (plus study) units, 2 no. two bedroom units and 4 no. 3 bedroom duplex units in a single three storey block.
- Associated provision of open space, improved access and all ancillary development.

7.8.8. The site location is described in section 3 of the screening report. It comprises of private garden space with mature trees along the boundaries.

7.8.9. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

7.8.10. Construction Phase:

- Accidental leakage from construction equipment, excavation of soils to facilitate the development and surface water run-off.

Operational Phase:

- Accidental leakage of petrol/diesel from private cars, surface water run off, foul effluent discharges.

*Submissions and Observations*

7.8.11. None received.

*European Sites*

7.8.12. The development site is not located in or immediately adjacent to a European site.

The following sites are noted:

- South Dublin Bay SAC (site code 000210) 600 metres to east
- South Dublin Bay and River Tolka SPA (site code 004024) 2.6km east
- North Dublin Bay SAC (site code 000206) 2.7km to north/northeast
- North Bull Island SPA (site code 004006) 2.7km to north/northeast

7.8.13. Qualifying interests and conservation objectives for each of the sites are listed on the National Parks and Wildlife Services (NPWS) website ([www.npws.ie](http://www.npws.ie)), the overall aim being to maintain or restore the favourable conservation condition of the identified qualifying interests.

### *Identification of Likely Effects*

- 7.8.14. The site is a brownfield, urban, serviced site which can connect to municipal water supply and sewage systems. There are no watercourses in the immediate vicinity of the site although I note the River Dodder is located to the west.
- 7.8.15. There is theoretically an indirect, hydrological pathway between the application site and the four named coastal sites via the public drainage system and the Ringsend WWTP, where wastewater from the proposed development would be treated. However, I am satisfied that the distances are such that any pollutants post treatment from the Ringsend WWTP would be minimal and would be diluted and dispersed and, therefore, there is no likelihood that pollutants arising from the proposed development either during construction or operation could reach the designated sites in sufficient concentrations to have any likely significant effects on the designated sites in view of their qualifying interests and conservation objectives.
- 7.8.16. In combination effects are addressed in Section 7 of the screening report for AA. It takes into consideration a number of plans and projects in the vicinity. It concludes that there will not be any in combination effects on the European site discussed.

### *Mitigation Measures*

- 7.8.17. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise. The measures to be employed at construction stage are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites.

### *Screening Determination*

- 7.8.18. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually or in combination with other plans or projects, would not be likely to give rise to significant effects on European Site Nos. 000210, 004024, 000206, 004006 or any other European site, in view of the sites' Conservation Objectives and Appropriate Assessment (and submission of a NIS) is not, therefore, required.

## 8.0 Recommendation

- 8.1. Having regard to the foregoing I recommend that the Board uphold the decision of Dublin City Council and that permission be granted for the following reasons and considerations, subject to conditions.

## 9.0 Reasons and Considerations

Having regard to the location of the site, the Z1 and Z2 residential land use zoning and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an appropriate form and scale of development at this location, would not seriously injure the visual amenities and character of the surrounding built environment or the residential amenities of adjoining properties and would be acceptable in terms of vehicular and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.  <b>Reason:</b> In the interest of clarity.
2.	The proposed development shall be amended as follows:  (a) The windows on the south west elevation of the apartment block shall be obscure glazed and fixed shut to a minimum height of 1.8m.

	<p>(b) Details of an alternative location for the communal bin store shall be agreed in writing by the Planning Authority prior to the commencement of any above grade works.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
3.	<p>The dwellings shall be occupied as single residential units only.</p> <p><b>Reason:</b> In the interests of the orderly development of the site.</p>
4.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental 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, noise and dust management measures, waste management and recycling of materials, environmental protection measures, welfare facilities, site deliveries, complaints procedure, pest control and traffic management arrangements as well as all measures undertaken to ensure orderly development.</p> <p><b>Reason:</b> In the interest of public safety, environmental protection, and residential amenity.</p>
5.	<p>Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the Planning Authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p><b>Response:</b> In the interests of sustainable waste management.</p>

6.	<p>The areas of open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the Landscape Plan received by the planning authority on the 12th day of December 2022. This work shall be completed before any of the dwelling units are made available for occupation. These open space areas shall be maintained as public open space by the developer.</p> <p><b>Reason:</b> In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
7.	<p>The development shall comply with the transport and access requirements of the Planning Authority, including surface materials, parking standards, provision of EV charging, and compliance with the Code of Practice. The details shall be submitted to and approved in writing by the Planning Authority prior to development commencing.</p> <p><b>Reason:</b> To facilitate safe pedestrian and vehicular access within the proposed development.</p>
8.	<p>The development shall comply with the drainage requirements of the Planning Authority, including surface water drainage, run-off rates, attenuation, flood mitigation, surface materials/paving, and details of sustainable urban drainage. Details shall be submitted to, and approved in writing by, the Planning Authority, prior to development commencing.</p> <p><b>Reason:</b> In the interests of public health.</p>
9.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
10.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity</p>
11.	<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 dwelling unit.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
12.	<p>Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwellinghouses without a prior grant of planning permission.</p> <p><b>Reason:</b> In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings</p>
13.	<p>(a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has</p>

	<p>been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.</p> <p><b>Reason:</b> 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>
14.	<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 96(4) and 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 97(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><b>Reason:</b> 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 for the area.</p>
15.	<p>Prior to commencement of development, the applicant shall submit to and agree in writing with the Planning Authority full details, including relevant areas, for the proposed Taking in Charge of the development, which shall be carried out and completed at least to the construction standards set out in the Dublin City Council 'Policy for the Taking in Charge of Residential Developments' (2012). Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
16.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management</p>

	<p>company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing within, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
17.	<p>Proposals for an estate/street name, house numbering scheme and associated signage (in Irish and English) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p><b>Reason:</b> In the interests of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.</p>
18.	<p>The developer shall prepare an Archaeological Assessment, including an Impact Assessment and Method Statement, for the proposed development, including all temporary and enabling works and geotechnical investigations. The full details and scope of the assessment are to be agreed in writing with the Planning Authority prior to the commencement of development, the undertaking of any site preparation works, and final foundation design. In the event that archaeological material is shown to be present then the developer shall prepare a detailed report incorporating full details of required excavation, monitoring, onward reporting, details for recording and publication, and a full mitigation strategy, all of which shall be agreed in writing with the Planning Authority, prior to the commencement of development.</p>

	<p><b>Reason:</b> In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.</p>
19.	<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, sewers, watermains, drains, open spaces 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 or maintenance 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><b>Reason:</b> To ensure the satisfactory completion of the development</p>
20.	<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 the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> 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>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Terence McLellan  
Senior Planning Inspector

29<sup>th</sup> February 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-316087-23		
<b>Proposed Development Summary</b>	Demolition of dwelling, construction of 22 dwellings and all associated site works		
<b>Development Address</b>	Baggotrath House, Newbridge Avenue, Sandymount, Dublin 4 (including 11 Newbridge Drive, Sandymount, Dublin 4, D04 C9Y5)		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	No further action required
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>		N/A	
<b>Yes</b>	X	Class 10 (b) (i), threshold >500 dwellings.	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>		<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Appendix 2

### Form 2

#### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-316087-23	
<b>Proposed Development Summary</b>	Demolition of dwelling, construction of 22 dwellings and all associated site works	
<b>Development Address</b>	Baggotrath House, Newbridge Avenue, Sandymount, Dublin 4 (including 11 Newbridge Drive, Sandymount, Dublin 4, D04 C9Y5)	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is for residential, in an area that is largely characterised by residential use. The proposed development would therefore not be exceptional in the context of the existing environment in terms of its nature.</p> <p>The development would not result in the production of any significant waste, emissions or pollutants.</p>	No.
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development</p>	<p>The development would generally be consistent with the scale of surrounding developments and would not be exceptional in the context of the existing environment.</p>	No.



<p>exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>There would be no significant cumulative considerations with regards to existing and permitted projects/developments.</p>	
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The development would be located in a serviced residential area s and would not have the potential to significantly impact on an ecologically sensitive site or location. There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other urban developments.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area.</p>	<p>No.</p>
<p><b>Conclusion</b></p>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>		

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_