



An
Bord
Pleanála

Inspector's Report

ABP-317485-23

Development	Construction of 2 storey residents communal pavilion with all associated site works.
Location	Site at Sandymount Avenue, Sandymount, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3649/23
Applicants	Klairon Construction Limited
Type of Application	Planning Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First against Conditions & Third Party
Appellants	Klairon Construction Limited Jeremy and Miranda Humphries Vincent Ryan
Observer	Maura Doyle
Date of Site Inspection	22 nd August 2023 & 29 th November 2023
Inspector	Margaret Commene

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1.0 Site Location and Description

- 1.1. The area surrounding the subject site, at Sandymount Avenue, Sandymount, Dublin 4, is a mature residential area featuring a mix of two and three storey detached and semi-detached dwellings (some of which are Protected Structures) in a variety of architectural styles, interspersed with more recent infill residential developments.
- 1.2. The appeal site is 392sqm in size and located on the northern side of Sandymount Avenue, c. 55 metres west of the junction of Sandymount Avenue and Gilford Road and c. 160 metre south-west of Sandymount Village and Green. More specifically, the appeal site comprises the side garden/part of the rear garden of No. 80 Sandymount Avenue and part of a larger landholding (to the north and west) on which is proposed to construct a residential development, approved under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21. The side garden/part of the rear garden of No. 80 Sandymount Avenue currently comprises an area of grass. The remaining part of the site has been cleared for development and accommodates an existing 25sqm ESB substation. The site's southern boundary adjoins Sandymount Avenue and includes a c. 2 metre high wall and a 3.25 metre high rendered wall comprising of the ESB substation's southern elevation.
- 1.3. No. 80 Sandymount Avenue to the east comprises a semi-detached two-storey dwelling, with parking to the front and garden to the rear. It forms a pair with No. 82 Sandymount Avenue. To the south of the subject site, on the opposite side of Sandymount Avenue, are Nos. 89-95 Sandymount Avenue which comprise a row of double storey terraced and semi-detached dwellings.
- 1.4. The site is c. 400 metres north-east of the Sandymount Dart Station and Dublin Bus Stop No. 7599, which is served by Bus Route No. 18, is located to the front of the site on Sandymount Avenue. The site is c. 3.5 km south east of Dublin City Centre.

2.0 Proposed Development

- 2.1. Permission is sought for: - construction of a two storey 189 sqm residents communal amenity pavilion building to serve the residential development permitted under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21 (and proposed to be extended and altered by Reg. Ref. 3420/22 & ABP Ref. ABP-314220-22 which is currently under consideration); works to the existing ESB substation, including recladding, reroofing,

and extension to accommodate an additional 4.3sqm switch room; landscape works to tie-in with to the permitted residential development; installation of new boundary treatment; and alterations to the curtilage of No. 80 Sandymount Avenue. The proposed development would be served by 1 no. accessible car parking space along the Sandymount Avenue frontage.

- 2.2. The proposed development will be contemporary in design and materials/finishes will consist of brick, stone and slate.

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council granted planning permission on 21st June 2023 subject to 10 no. conditions, including Condition No. 3 which reads as follows:

3. The hereby permitted development shall be amended as follows:

- (a) The proposed accessible car parking space and associated vehicular access on Sandymount Road shall be omitted and revised landscaping scheme shall be implemented.*
- (b) The structure shall be redesigned to ensure that the front façade of the building aligns with the existing building line created by No. 80 and 82 Sandymount Avenue.*
- (c) The structure shall be redesigned to ensure that a minimum of 2.8m separation distance is maintained between the side of the proposed structure and the side elevation of No. 80 Sandymount Avenue.*
- (d) The subdivision of the rear garden of No. 80 Sandymount Avenue shall be omitted, and the existing rear garden and boundaries retained to serve this existing dwelling.*
- (e) The applicants shall include a ground floor window mirroring the size and dimensions of the proposed 1st floor window on the northern façade.*

Prior to the commencement of development revised site plans, landscape plans, elevations and particulars showing the above shall be submitted to the planning authority for written approval.

Reason: To protect existing amenities.

3.2. Planning Authority Reports

3.2.1. *Planning Report*

- The proposed structure sits forward of the existing building line and adopts a separation distance of c. 1.3m from the existing residential unit adjacent, No. 80 Sandymount Avenue, the gable of the proposed amenity building being developed flush with the amended boundary with No. 80 Sandymount Ave. This limited separation distance is considered insufficient to maintain and protect the residential amenity of the existing dwelling. To address this issue, it is considered appropriate to include a condition requiring the proposed structure be moved 1.5 metres from the shared boundary, providing a setback of at least 2.8 metres from the existing dwelling's western facade.
- The proposed development does not respect the established building line on Sandymount Avenue and, therefore, would have a negative impact on the streetscape and the character of the area. It is considered appropriate to include a condition requiring that the front façade is moved c. 0.9 metres north so that it aligns with the building line of No. 80 and 82 Sandymount Avenue.
- The proposed 2-storey building is taller than the existing dwellings at Nos. 80 and 82 Sandymount Avenue. It is considered that the visual impact of this additional height would be mitigated by the aforementioned amendments.
- The subject site was previously part of the side/rear garden of No. 80 Sandymount Avenue. It is proposed to subdivide this previous residential site into 3 plots; the first (the side garden) containing the proposed residential amenity building, the second plot comprising No. 80 Sandymount Avenue, its front and a portion of its rear garden, and the third plot (a triangular piece of the rear garden) will be included in the wider redevelopment site accommodating an additional bench to serve the permitted residential scheme. These works would have a significant negative impact on the residential amenity of No. 80 Sandymount Avenue, and would be of minimal gain to the permitted scheme. It is considered that the shape of the rear garden at No. 80 Sandymount Avenue shall be retained as it is at present, and the proposed works at this location omitted from the scheme. This can be addressed by condition.

- The submitted sunlight and daylight assessments found that the proposed development would have a significant negative impact on the Vertical Sky Component (VSC) of the two ground floor windows on the east façade of No. 80 Sandymount Avenue. By moving the proposed structure from the shared boundary by 1.5 metres and by aligning the structure with the established building line, potential impacts on daylight and sunlight would be reduced.
- The northern façade of the proposed building adjoins the public amenity areas of the permitted residential scheme. To increase passive surveillance of the adjoining public amenity area, it is considered appropriate that the 1st floor window at the stairs featuring on the northern be continued down to Ground Floor level. This matter can be addressed by condition.
- It is unclear how the new boundary at No. 80 Sandymount Avenue would be constructed. To protect existing and future residential amenity, it is considered appropriate that the boundary to the existing rear garden is retained and that the new boundary to the side of No. 80 should comprise a 1.8 metre capped and rendered block wall. This matter can be addressed by condition.
- Having regard to the concerns raised by the Transportation Planning Division, it is considered appropriate that the accessible car parking space/vehicular access be omitted and replaced with landscaping. This can be addressed by condition.
- It is noted that the proposed works are unlikely to raise significant flooding issues on the basis that significant additional people will not be brought to the area, the works do not entail the storage of hazardous substances and do not adversely impact any watercourse, floodplain or flood protection facilities.
- Having regard to the nature and scale of the proposed development, the fully serviced urban location, and the distance to the nearest European site, it is considered that the proposed development is unlikely to have a significant effect, individually or in combination with other plans or projects, on a European site.
- Having regard to the nature and scale of the proposed development, which comprises works to an existing structure in a fully serviced urban location, and the absence of any connections to environmentally sensitive locations, there is no real likelihood of significant effects on the environment arising from the

proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

- The principle of the proposed development is acceptable, and it is considered that issues surrounding visual and residential amenity and potential traffic impacts can be addressed by condition.

3.2.2. **Other Technical Reports**

Drainage Division (17/05/23): No objection, subject to conditions.

City Archaeologist (12/06/23): No objection, subject to conditions.

Transportation Planning (07/06/23): No objection subject to the inclusion of conditions requiring compliance with conditions attached to the parent permission, omission of the accessible car parking space and associated vehicular access on Sandymount Avenue, restricting use of the amenity pavilion building to residents only, payment of expenses associated with repairs to the public road/services necessary as a result of the development to fall to the developer and compliance with the requirements set out in the Code of Practice.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

4 no. third party observations were submitted to the Planning Authority. The main issues raised therein are as follows:

- Negative impact on the streetscape, given the proposed development's height, scale and design.
- Negative impacts on the residential amenity of neighbouring properties and on future residents of the permitted scheme, due to resultant loss of privacy and daylight/sunlight.
- Noise impacts arising from the proposed seating area and operation of the proposed centre.

- Inaccurate information submitted, including in respect of building lines, heights, and the daylight & sunlight assessment.
- Traffic hazard will be created due to the narrow width of Sandymount Avenue at this location, and potential for delivery drivers to use the proposed parking space as a set down area.
- Proposed switch room does not meet ESB requirements.
- Proposed structure is taller than the adjoining dwelling and does not accord with the established building line.
- Insufficient CGI have been submitted.

4.0 Planning History

4.1. Subject Site

4.1.1. The following previous application pertaining to the subject site, or part thereof, are of relevance:

PA Reg. Ref. 2800/20 (ABP Ref. ABP-309742-21) – Parent Permission

This application relates to an application for (in summary): - demolition of existing wall fronting onto Sandymount Avenue and all associated site clearance; construction of 58 no. apartments (8 no. 1 beds, 48 no. 2 beds and 2 no. 3 beds) in a part three to part five storey building over basement, served by 39 no. car parking spaces and 92 no. cycle parking spaces; and provision of 625sqm of public open space fronting Sandymount Avenue.

Permission was granted by Dublin City Council on 23rd February 2021. The Planning Authorities decision has been appealed to An Bord Pleanála by a no. of third parties (ABP Ref. 309742-21). The Board granted permission on 28th October 2021.

PA Reg. Ref. 3420/22 (ABP Ref. ABP-314220-22)

This application relates to an application for (in summary) alterations to and extension of the previously approved residential development permitted under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21, comprising of the following: - alterations, internal reconfiguration, and extension of Block A.02, from ground to third floor level, to provide

5 no. additional residential units (2 no. 1 bed apartments and 3 no. 2 bed apartments); provision of a new 2 storey residential block, Block A.03, comprising 6 no. apartment units (4 no. 1 bed apartments and 2 no. 2 bed apartments); provision of a new landscaped courtyard to cater for the additional residential units; minor alterations to the permitted basement layout to provide a total of 130 no. cycle spaces; and extension of the development boundary of permission Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21, to accommodate the proposed alterations and extension of the permitted residential development. The proposed alterations and additional Block A.03 increase the total number of residential units from 58 to 69 no. units.

Permission was granted by Dublin City Council on 4th July 2022 subject to 10 no. conditions. The Planning Authorities decision has been appealed to An Bord Pleanála by third parties (ABP Ref. ABP-314220-22). A determination had not been made on this appeal at the time of writing this report.

4.2. Adjacent Sites

4.2.1. There have been no recent applications on the sites immediately adjacent to the subject site that are pertinent to the current proposal.

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

5.1.1. Land Use Zoning

The majority of the site (easternmost part) is zoned 'Z1 Sustainable Residential Neighbourhoods' in the Dublin City Development Plan 2022-2028 with a stated objective to *'protect, provide and improve residential amenities'*. The remainder of the site (westernmost part) is zoned 'Z12 Institutional Land (Future Development Potential)' with a stated objective to *'ensure existing environmental amenities are protected in the predominantly residential future use of these lands'*. 'Residential' is listed as a Permissible Use on both Z1 and Z12 lands.

In the context of the 'Z12 – Institutional Land (Future Development Potential)' zoned land, Section 14.7.12 states that *'in considering any proposal for development on lands subject to zoning objective Z12, other than development directly related to the existing community and institutional uses, Dublin City Council will require the*

preparation and submission of a masterplan setting out a clear vision for the future development of the entire landholding.' Section 15.8.6 requires that where lands zoned Z12 are to be developed, a minimum of 25% of the site will be required to be retained as accessible public open space to safeguard the essential open character and landscape features of the site. A requirement of 10% applies in the context of Z1 zoned land. Section 15.8.7 states that in some instances it may be more appropriate to seek a financial contribution towards the provision of public open space elsewhere in the vicinity. This would include cases where it is not feasible, due to site constraints or other factors, to locate the open space on site, or where it is considered that, having regard to existing provision in the vicinity, the needs of the population would be better served by the provision of a new park in the area (e.g. a neighbourhood park or pocket park) or the upgrading of an existing park.

5.1.2. Other Relevant Sections/Policies

The site is identified as being within Flood Zone B in the Strategic Flood Risk Assessment prepared as part of the Dublin City Development Plan 2022-2028 and the site's northern boundary flanks the Sandymount Village and Environs Architectural Conservation Area.

The following policies are considered relevant to the consideration of the subject proposal:

Section 9.5.3 – Policy SI16: Site-Specific Flood Risk Assessment

Proposals which may be classed as 'minor development', for example small-scale infill, extensions to houses and small-scale extensions to existing commercial and industrial enterprises in Flood Zone A or B, should be assessed in accordance with the Guidelines for Planning Authorities on the Planning System and Flood Risk Management and Technical Appendices (2009), as revised by Circular PL 2/2014 and any future amendments, with specific reference to Section 5.28 and in relation to the specific requirements of the Strategic Flood Risk Assessment. This will include an assessment of the impact of climate change and appropriate mitigation. The policy shall be not to increase the risk of flooding to the development or to third party lands, and to ensure risk to the development is managed.

Section 11.5.2 - Policy BHA7: Architectural Conservation Areas

- (a) To protect the special interest and character of all areas which have been designated as an Architectural Conservation Area (ACA). Development within or affecting an ACA must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area, and its setting, wherever possible. Development shall not harm buildings, spaces, original street patterns, archaeological sites, historic boundaries or features, which contribute positively to the ACA. Please refer to Appendix 6 for a full list of ACAs in Dublin City.*
- (b) Ensure that all development proposals within an ACA contribute positively to the character and distinctiveness of the area and have full regard to the guidance set out in the Character Appraisals and Framework for each ACA.*
- (c) Ensure that any new development or alteration of a building within an ACA, or immediately adjoining an ACA, is complementary and/or sympathetic to their context, sensitively designed and appropriate in terms of scale, height, mass, density, building lines and materials, and that it protects and enhances the ACA. Contemporary design which is in harmony with the area will be encouraged.*
- (d) Seek the retention of all features that contribute to the character of an ACA including boundary walls, railings, soft landscaping, traditional paving and street furniture.*
- (e) Promote sensitive hard and soft landscaping works that contribute to the character and quality of the ACA.*
- (f) Promote best conservation practice and encourage the use of appropriately qualified professional advisors, tradesmen and craftsmen, with recognised conservation expertise, for works to buildings of historic significance within ACAs.*

Section 15.5.2 Infill Development

Infill development should complement the existing streetscape, providing for a new urban design quality to the area. It is particularly important that proposed infill development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.

As such Dublin City Council will require infill development:

- *To respect and complement the prevailing scale, mass and architectural design in the surrounding townscape.*
- *To demonstrate a positive response to the existing context, including characteristic building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area.*
- *Within terraces or groups of buildings of unified design and significant quality, infill development will positively interpret the existing design and architectural features where these make a positive contribution to the area.*
- *In areas of low quality, varied townscape, infill development will have sufficient independence of form and design to create new compositions and points of interest.*
- *Ensure waste management facilities, servicing and parking are sited and designed sensitively to minimise their visual impact and avoid any adverse impacts in the surrounding neighbourhood.*

Section 15.9.10 Internal Communal Facilities

Large scale developments in excess of 100 or more units are encouraged to provide for internal communal facilities for use by residents. These facilities include laundry rooms, community or meeting rooms, management offices, co – working spaces etc. Other uses such as gyms or co-working spaces can also be provided and available to non-resident users also.

Section 15.11.3 Private Open Space

Private open space for houses is usually provided by way of private gardens to the rear of a house. A minimum standard of 10 sq. m. of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. Generally, up to 60-70 sq. m. of rear garden area is considered sufficient for houses in the city. In relation to proposals for house(s) within the inner city, a standard of 5–8 sq. m. of private open space per bedspace will normally be applied.

Appendix 3 – Section 3.2 Plot Ratio and Site Coverage

The development plan sets indicative requirements of 1.0-2.5 for plot ratio and 45-60% for site coverage for Outer Employment and Residential Area. Higher plot ratio and site coverage may be permitted in certain circumstances such as:

- Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed.
- To facilitate comprehensive re-development in areas in need of urban renewal
- To maintain existing streetscape profiles.
- Where a site already has the benefit of a higher plot ratio.
- To facilitate the strategic role of institutions such as hospitals.

Appendix 3 – Section 4.0 Height

The Building Height Guidelines note that general building heights of at least three to four storeys, coupled with appropriate density in locations outside what is defined as city centre, and which would include suburban areas, must be supported in principle at development plan level.

In considering locations for greater height and density, all schemes must have regard to the local prevailing context within which they are situated.

There is recognised scope for height intensification and the provision of higher densities at designated public transport stations and within the catchment areas of major public transport corridors including:

- *Bus connects/Core Bus Corridors (CBC's)*
- *Luas*
- *Metrolink*
- *DART*

Development proposals will primarily be determined by reference to the proximity of new public transport infrastructure and to the area character. Locations for intensification must have reasonable access to the nearest public transport stop. In line with national guidance, higher densities will be promoted within 500 metres

walking distance of a bus stop, or within 1km of a light rail stop or a rail station in the plan. Highest densities will be promoted at key public transport interchanges or nodes.

5.2. Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht, 2011)

The site's northern boundary flanks the Sandymount Village and Environs Architectural Conservation Area. Therefore, the 'Architectural Heritage Protection, Guidelines for Planning Authorities' are considered relevant. The guidelines provide guidance in respect of the criteria and other considerations to be taken into account in the assessment of proposals affecting Protected Structures or within an Architectural Conservation Area. Section 13.8 of the Guidelines relate to Other Development Affecting the Setting of a Protected Structure or an Architectural Conservation Area. When dealing with applications for works outside the curtilage and attendant grounds of a Protected Structure or outside an Architectural Conservation Area which have the potential to impact upon their character, similar consideration should be given as for proposed development within the attendant grounds.

5.3. Natural Heritage Designations

The proposed development is not located within or immediately adjacent to any European site. The nearest European site is the South Dublin Bay SAC (Site Code 000210)/the South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) located c. 475 metres east.

6.0 The Appeal

6.1. Grounds of the Third-Party Appeal

Third party appeals have been submitted by Jeremy & Miranda Humphries, of No. 82 Sandymount Avenue, and Vincent Ryan, of No. 84 Sandymount Avenue. The main points raised by Jeremy & Miranda Humphries can be summarised as follows:

- The inclusion of a condition, requiring that the subdivision of the rear garden of No. 80 Sandymount Avenue be omitted, is welcomed. However, the existing boundary wall has already been demolished and a wall built to subdivide the garden. This was done in March before any planning permission was obtained.

No. 80 Sandymount Avenue is now back on the market. It is asked that the garden be reinstated immediately.

- The proposed reduction in No. 80 Sandymount Avenue's Garden reduces neighbouring property values and has impacts on the residential amenity of No. 80 Sandymount Avenue as well as adjacent properties. It also restricts No. 80 Sandymount Avenue's development potential.
- The inclusion of a condition, requiring the front façade aligns with the existing building line created by Nos. 80 and 82 Sandymount Avenue is welcomed. However, it is requested that the building is not just pushed back to achieve this as doing so would cause a loss of light in the rear gardens of Nos. 80 and 82 Sandymount Avenue. Further to this requirement, it is asked that the building be made to match the rear building line also. There is also a further concern regarding fire tender access in the context of the building being pushed backward to address the requirements of this condition.
- The inclusion of a condition, requiring a minimum separation distance of 2.8 metres is provided from No. 80 Sandymount Avenue is welcomed. However, if the building is pushed westwards to achieve this, it will impinge on public open space area previously approved in the original application.
- Instead of pushing the building around, it is asked that the footprint be reduced, which could be achieved in several ways and would facilitate multiple benefits to neighbouring properties and future residents.
- The drawings submitted with the application were highly misleading as to the boundary of the area under development. The applicant uses diagrams with red outlines implying a new site area much bigger than it is/contain part of the public open space area.
- DCC failed to address concerns raised regarding the following: - the street-facing façade is unacceptable given its massing effects and incongruity with the area; the eaves of the building are unnecessarily taller than adjoining houses creating a highly disjointed look and feel; and the bottom of the new centre appears to be elevated above the level of adjoining house which needs to be resolved.

The main points raised by Vincent Ryan can be summarised as follows:

- DCC have overlooked several important issues in their examination of the submitted application material. For example, the application includes part of the site involved in planning application Reg. Ref. 2800/20 and not just the side/rear garden, the pavilion building occupies more than 54% of the side garden, the pavilion building extends past No. 80 and 82 Sandymount Avenue's rear building line and the red line includes the ESB substation which is not owned by the applicant.
- The developer is attempting to introduce the new switch room/extend the canopy into the pre-allocated Z12 zoned public open space area.
- The submitted drawings are missing the location of the garden wall enclosing the area of purchased side garden of No. 80 Sandymount Avenue. As a result, the developer has been misleading regarding the extent of the side garden/the inclusion of an area involved in planning application Reg. Ref. 2800/20.
- The proposed canopy to the ESB switch room will give fleeting cover protection to residents entering/leaving the development and is purely an attempt to dress up its ugly appearance. It is recommended that this ESB substation and the attached Enable Ireland switch room be relocated to a more suitable place in the site to give the ESB easier access.
- Compliance with the plot ratio requirements is queried.
- In light of the conditions attached regarding No. 80 Sandymount Avenue's rear wall, it should be immediately removed from the 'For Sale' market and the original garden size reinstated. The demolition of sheds etc./the erection of the wall by the developer was done so prematurely (ahead of DCC approval).
- The length of the overall build programme for the entire apartment complex (2-2.5 years) is of concern, due to resultant noise, dust, traffic disruption and impacts on Enable Ireland School services.
- Ground turning work on the proposed pavilion building will result in increased rodent activity in the surrounding area.
- The following queries raised in original observation should be considered by the Board when conducting their assessment: - can the pavilion be redesigned to blend in with the surrounding properties; and can its height be reduced to align it with the height of Nos. 80 and 82 Sandymount Avenue.

- The proposed switch room falls short of the requirements outlined in the 'Company Standard Construction Standards for MV Substation Buildings', prepared by the ESB. It is unsuitably sized, located and designed and will be dangerous to those entering/existing the site using the adjacent path. Therefore, this element should be refused.
- With the imposition of Conditions No. 3(b) and 3(c), the pavilion building will be pushed closer to Block A.01 causing the 22m rule to be breached even further.
- It is asked that An Bord Pleanála consider the shortfalls/issues raised and refuse permission or introduce additional planning conditions before granting permission.

6.2. Grounds of the First Party Appeal

A first party appeal against Condition No. 3(d) of the decision to grant permission was received from the applicant. The following is a summary of the main issues raised:

- Following the grant of permission for the neighbouring residential development, under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21, the applicant acquired lands at No. 80 Sandymount Avenue which featured an extensive side and rear garden. The garden of No. 80 Sandymount Avenue has a new boundary treatment (2 metre garden wall) built under exempted development provisions (Class 5, Article 6, Schedule 2 of the Planning and Development Regulations, 2001-2023). This was built in early April 2023, prior to the lodgement of the subject planning application.
- The proposed development involves the construction of a communal amenity pavilion building and the extension of the communal open space area associated with the neighbouring development. No additional apartments are proposed as part of this application.
- The newly constructed boundary wall complies with exempted development provisions not exceeding 2 metres in height, being of concrete blocks and no part of the wall is visible from the public realm or public footpath.
- As illustrated in the drawings and photographs accompanying the appeal, No. 80 Sandymount Avenue still has access to an appropriately sized rear garden (124.8sqm) with the existing boundary treatment. Section 15.11.3 of the

Development Plan states in respect to private amenity space for houses that *'generally, up to 60-70sqm of rear garden area is considered sufficient for houses in the city'*. The garden serving No. 80 Sandymount Avenue exceeds this and provides an appropriate level of amenity to residents.

The appeal is accompanied by updated versions of the site layout plan (one in the context of the layout approved under parent permission, Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21, and one in the context of the proposed layout being considered under Reg. Ref. 3420/22 & ABP Ref. ABP-314220-22), prepared by O'Mahoney Pike Architects, illustrating how the requirements of Condition Nos. 3(a), (b), (c) and (e) could be complied with. These conditions do not form part of this appeal, however, the first party appeal requests that the board omit Condition No. 3(d).

6.3. Appellant Responses

6.3.1. First Party Response to Third Party Appeal

The first party appellant has submitted two separate responses to the third-party appeals submitted. The first party appellant's response to the third-party appeal lodged by Vincent Ryan can be summarised as follows:

- In response to concerns raised regarding the application drawings, the applicant notes that it is unclear what planning issue has been raised in the commentary provided as all the proposed works are included within the application site boundary and all subject lands are within the applicant's ownership.
- In response to comments made regarding the absence of the original edge of the garden wall to Sandymount Avenue, it is noted that the drawings submitted with the application illustrate the proposed development in the context of the permitted development under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21 and the development under consideration under Reg. Ref. 3420/22. The garden of No. 80 Sandymount Avenue has a new wall built under exempted development provisions prior to lodgement of the subject application.
- Suggestions made that the building will be pushed 1.1 metres beyond the rear building line of neighbouring properties, in response to the requirements outlined in Condition No. 3(b), and that this will cause additional overshadowing and light

reduction. In response to this, the applicant's response is accompanied by an Addendum to the Daylight & Sunlight Assessment, prepared by Digital Dimensions. Having considered the requirements of Condition No. 3(b), this report states that *'the analysis finds that the amenity space to No. 80 Sandymount Avenue has and will continue to have, good quality sunlight with the proposed development (as revised by condition No. 3(a), (b), (c) and (e) in place. The amenity space will continue to achieve in excess of 2 hours sunlight over 50% of the amenity space on the 21st March. The proposed development meets the recommendations of the BRE guidelines (2022).'* It also states that *'there are windows on the ground floor side elevation which are reduced below the recommended VSC levels, some serving rooms that are dual aspect. All remaining windows in No. 80 Sandymount Avenue meet the recommendations of the BRE guidelines.'* In addition to VSC, the response states that *'BR209:2022 recommends assessment methods set out in BS EN 17037 for daylight provision. 100% of the rooms assessed achieve the target values set out in BS EN 17037: 2018+A1:2021 section NA1. This is the minimum room specific values to be achieved in dwellings.'* In light of this analysis, it is not considered necessary to reduce the rear building line to align with Nos. 80 and 82 Sandymount Avenue.

- The appeal raises a concern regarding the proposed switch room extension to the ESB station. In this regard, it is noted that a single storey 25sqm substation already exists on Sandymount Avenue which it is proposed to extend by 4.3sqm to accommodate a switch room. The ESB and Enable Ireland have provided letters of consent/support for the same. Both switch rooms are accessible from the subject site, with no openings proposed to Sandymount Avenue. In response to concerns raised, the applicant's response is accompanied by a response to M&E issues raised, prepared by Delap and Waller Ltd, which assesses its suitability/outlines the ESB's support for the same. In response to the suggestion that the substation/switch room be relocated due to its visual impact, it is argued that the proposed alterations to the façade and roof improve the structure's visual impact. Although not owned by the applicant, consent has been provided by the ESB for the inclusion of the substation land in the application contrary to implications made by the third party.

- With regard to concerns raised regarding the new switch room/canopies extension into the pre-allocated Z12 zoned public open space, a response document on the architectural issues raised, prepared by O'Mahoney Pike Architects, accompanies this appeal response. It illustrates that the proposed development provides an additional 82.1sqm of public open space. The total open space provision is 707sqm, the subject application resulting in an increase. The canopy provides shelter to the public.
- Concerns are raised about how the proposed amenity building relates to the height, materials, proportions and design of adjoining buildings. This matter is considered in the response document on the architectural issues raised, prepared by O'Mahoney Pike Architects. In summary, the design approach is consistent with the permitted residential development in terms of façade treatment, roof, window scale, materials and finishes to ensure the proposed building will integrate with the permitted development. With regards to comments made regarding the proposed development being higher than No. 80 Sandymount Avenue, it is contended that the proposed building has been designed so that its overall scale, form and design does not impact on the amenities of adjoining/permitted dwellings and its scale/height are consistent with this neighbouring property.
- With regards to the demand that No. 80 Sandymount Avenue is removed from the 'For Sale' market, although not a planning issue, it is advised that the property has been taken off the market pending a decision. It is noted that the erection of the new garden wall constitutes exempted development. No. 80 Sandymount Avenue still has access to a 124.8sqm rear garden, consistent with development plan guidance. With regards to comments made regarding the demolition of the outside shed/toilet, outside utility room and an attached sunroom, it is noted that their removal constitutes exempted development pursuant to Class 50, Article 6, Schedule 2 of the Planning and Development Regulations, 2001 (as amended).
- Revisions made to the western boundary of No. 80 Sandymount Avenue's rear garden will greatly improve the communal open space area serving the adjacent residential development/provide visual links through the site.

- As the proposed building does not constitute a residential dwelling, the '22 metre rule' is not applicable as suggested by the appellant. The primary windows serving the proposed building have an outlook to the adjacent public open space area and so it will not overlook adjacent apartments.
- In response to concerns raised regarding construction impacts, it is noted that the development will comply with construction phase Condition Nos. 9 and 10 outlined in the DCC grant.
- With regards to concerns raised regarding parking overspill, it is noted that the proposed building does not require additional parking as it is ancillary to the permitted residential development. The car parking provision for this was previously accepted by DCC and ABP.

The first party appellant's response to the third-party appeal lodged by Jeremy & Miranda Humphries can be summarised as follows:

- With regards to the support expressed for the inclusion of Condition No. 3(d), it is noted that the demolition of the previous wall/construction of the new garden wall constitutes exempted development. Although not a planning issue, it is advised that No. 80 Sandymount Avenue has been taken off the market pending a decision.
- In response to concerns raised regarding the revised garden serving No. 80 Sandymount Avenue, the applicant refers the Board to the response document on the architectural issues raised, prepared by O'Mahoney Pike Architects, accompanying their response to Vincent Ryan's third party appeal. As outlined in this, the dwelling is served by a garden exceeding development plan requirements and the amended garden allows for improvements to the residential development's communal amenity space. The Board is also referred to the Addendum to the Daylight & Sunlight Assessment, prepared by Digital Dimensions, accompanying their response to Vincent Ryan's third party appeal which concludes that the revised garden complies with the applicable BRE guidelines and also shows that the garden of No. 82 Sandymount Avenue will be unaffected by the proposal.

- The third party appellant claims that the proposal further encroaches on No. 82 Sandymount Avenue and will impact on their residential amenity and ask that the original garden wall be reinstated. In response to this, the applicant argues that the new 2m wall/the proposed pavilion building have no impact on No. 82 Sandymount as they are to the west and north-west of No. 80 Sandymount Avenue, some distance from the boundary western boundary wall of No. 82 Sandymount Avenue. The proposed building has been designed so its overall scale, form and design does not impact in any material way one the amenities of No. 82 Sandymount Avenue.
- This third-party appellant contends that the redesign required by Condition No. 3(b) will result in the building being pushed backwards impacting on neighbouring light and that the upper floor level should be omitted. The Board is again referred to the Addendum to the Daylight & Sunlight Assessment, prepared by Digital Dimensions, accompanying their response to Vincent Ryan's third party appeal which illustrates that all windows to No. 82 Sandymount Avenue comply with the BRE guidelines and given the garden of No. 80 Sandymount Avenue complies with the BRE guidelines, No. 82 Sandymount Avenue will also.
- In response to concerns raised that revisions made in response to Conditions No. 3(b) and 3(c) will impinge on fire tender access, the applicant refers to the fire tender access drawings, prepared by JB Barry Consulting Engineers which accompany the appeal. They contend that any minor amendments to landscaping resulting from the alterations required to the building can be addressed post-planning design stage during the fire certificate application process.
- In response to concerns raised regarding reductions resulting in Z12 zoned public amenity area, it is noted that the proposal in fact results in an increase in the same. The extension to the substation, associated with the switch room, results in a minor reduction in public open space provision. If the Board deems public open space provision to be an issue, the applicant welcomes the inclusion of a condition requiring additional compensation.
- This appeal raises concerns about architectural design aspects of the proposed residential amenity building. The Board is referred to the response document on the architectural issues raised, prepared by O'Mahoney Pike Architects,

accompanying their response to Vincent Ryan's third party appeal which illustrates that the façade treatment, roof, window scale, materials and finishes to ensure the proposed building will integrate with the permitted development and how its scale/height is consistent with adjoining properties.

6.3.2. *Third Party Response to First Party Appeal*

Responses to the first party appeal/the applicant's response to Vincent Ryan's third-party appeal were submitted by third party appellants Jeremy & Miranda Humphries and Vincent Ryan. The main points raised by Jeremy & Miranda Humphries can be summarised as follows:

- The additional material accompanying the first party appeal further supports our concerns regarding the reduction to the size of No. 80 Sandymount Avenue's rear garden and the overall bulk/massing of the design relative to existing/adjoining dwellings.
- The applicant contends that the alterations to No. 80 Sandymount Avenue's garden is needed to increase the existing pinch point from 10 metres to 14 metres. However, contrary to this the proposed building adopts a setback of 9.5 metres from Block A.01 elsewhere, which contradicts this reasoning.
- The rear garden of No. 80 Sandymount Avenue should be re-instated for the following reasons:
 - the original development approved by DCC/ABP adopt lesser separation distances;
 - the developer has shown that a fire tender can traverse this area so it can't be described as a pinch point;
 - it can't comprise a pinch point if tree planting is proposed in the applicable area;
 - the cutting up of the garden results in a horrendous 2.1 metre narrowing of the same which is a pinch point for future residents of this property;
 - the bench referred to in the application already exists but is just being moved closer;

- the premise of removing the 'pinch point' is flawed in light of the appeal being considered under ABP Ref. ABP-314220-22 which, among other things, sees third parties asking for the retention of trees in this area;
 - If the boundary remains as per its original location, it will afford residents the opportunity to plant trees in their garden to screen views if the approved residential development;
 - The reduced garden limits the development potential of No. 80 Sandymount Avenue, as well as its neighbouring properties;
 - The tiny wedge being added to the adjacent residential development makes limited improvement to its amenity; and
 - Pushing the residential development further east moves noise/congregation closer to adjacent properties to the east.
- The Addendum to the Daylight & Sunlight Assessment, prepared by Digital Dimensions, accompanying their response to Vincent Ryan's third party appeal illustrates the devastating impact of this design and further supports our request that the first floor be omitted. Omission of the upper floor level would negate the need for a lift shaft/allow for a reduction in the footprint and improved light received by No. 80 Sandymount Avenue's windows/garden.
 - The following specific queries/points are raised in relation to this report's content:
 - In Section 4.1 - 5 of No. 80 Sandymount Avenue's 9 windows fall below the requirement regarding VSC.
 - In Section 4.3 - concerns are raised regarding the validity of this analysis.
 - In Section 5.1 – the devastation to the light of the rear garden of No. 80 Sandymount Avenue is illustrated, with residents being forced to the back corner to get sun.
 - In Section 6 – the shadow diagrams show that there is zero improved light benefits to the associated residential development/in fact it negatively impacts on the same and a devastating impact on the garden of No. 80 Sandymount Avenue.

- The points made regarding the scale/height of the proposed building, in the response document on the architectural issues raised, prepared by O'Mahoney Pike Architects, are refuted.
- The figures quoted regarding public open space provision are refuted. It is argued that c. 540sqm is in fact provided which is well below the 20% requirement. The space being added to this as part of the subject application is meager and comprises more of an access path than meaningful public open space area.

The main points raised by Vincent Ryan can be summarised as follows:

- It is considered an appropriate time to review the application for the amenity pavilion building in the context of the 3 no. applications relating to the site.
- Having carried out an examination of the drawings submitted with the application, a no. of anomalies have been identified, as illustrated by the measurement working sheet accompanying this submission. Therefore, thorough scrutiny is needed by the Board and DCC.
- The submitted drawings continue to omit the original location of the garden's western wall.
- Concerns regarding the substation extension/the desire that it be relocated are reiterated. Left of the underground car park is suggested as a suitable new location.
- The figure outlined for public open space provision is incorrect and needs to be reviewed. Conflicts also exist between the details regarding the increase in public open space outlined in John Spains report and the document prepared by O'Mahoney Pike Architects.
- Compliance with the plot ratio requirements is queried again.
- A review of the resultant increase in communal open space is needed.
- The inclusion to include Condition No. 3(d) is wise. The following supplementary points are added in relation to the amendments it requires:
 - The resultant reduction to No. 80 Sandymount Avenue's rear garden was inhumane to residents of this property;

- It would detract from the shape, privacy and residential amenity originally afforded residents;
- It would detract from the character of the garden;
- The resultant shape would be challenging/inappropriate for gardening;
- Nos. 80, 82, 84 and 86 Sandymount Avenue have similar plot sizes;
- The bench proposed in the applicable area already featured in the residential development, just in a different location;
- The forfeiting of this triangular sliver will have no great impact on the 69-unit residential development;
- Its inclusion would have pushed the overdeveloped residential development closer to No. 80 Sandymount Avenue; and
- The reduced rear garden would make No. 80 Sandymount Avenue less attractive to prospective purchasers.

6.4. Planning Authority Response

- The Planning Authority requests that the Board uphold their decision and if permission is granted, request that a condition requiring payment of a Section 48 development contribution be included.

6.5. Observations

An observation on the first-party appeal was lodged by Maura Doyle. The issues raised can be summarised as follows:

- The submission of 3 no. separate applications pertaining to the site makes the design, layout and use of the lands very confusing. Will the 3 no. applications be considered in their entirety or separately by the Board and will the applicant be made to provide the mandated public open space area/a suitably designed pedestrian access to the apartment complex.
- The proposed canopy and switch room are on Z12 zoned public open space previously designated under Reg. Ref. 2800/20 while the proposed pavilion

building encroaches on planning application Reg. Ref. 2800/20 and the Z12 zoned public open space.

- The design/public appearance and useability of the pedestrian entrance has changed greatly from that approved under Reg. Ref. 2800/20. The path is now narrow/enclosed and its appearance has disimproved when viewed from Sandymount Avenue/coming from the village.
- The duration, complexity and disruption arising from the proposed build programme is of concern. More specifically, the noise, dust, traffic disturbance and rodent activity that will arise from the same.

6.6. Further Responses

A response to the applicants' response to the third-party appeals were lodged by Maura Doyle and Vincent Ryan.

The response received from Maura Doyle can be summarized as follows:

- It is requested that the Board consider all 3 no. applications in their entirety and that material submitted, calculations and uses proposed are scrutinised. Without such due diligence, no confidence exists regarding the accuracy of what will be built.
- It is asked that the Board consider pushing the pavilion building back further than the neighbouring building line and the roof aligned with the neighbouring dwellings so as to reduce its imposing nature on No. 80 Sandymount Avenue and Sandymount Avenue more broadly.
- The appearance of the pavilion's front façade remains bulky due to the solid red brick wall featuring, the material of which neither matches the proposed apartments or the neighbouring dwellings. The window extension required by Condition No. 3(e) doesn't address the issue.
- The applicant refutes the Planning Authority's requirement that the garden of No. 80 Sandymount Avenue be reinstated. It is asked that the Board uphold this aspect of the Planning Authority's decision in the interest of the residential amenity of No. 80 Sandymount Avenue's residents.
- It is asked that the ESB substation/switch room be moved to the rear of the building, facing in to the complex away from public view.

- The applicant's drawing of the proposed pedestrian entrance is deceptive. The space will in fact be narrower than indicated due to the enlarged ESB substation/switch room, which presents as bulky within the streetscape. It is asked that rather than being enlarged, the required switch room be provided within the proposed development.
- It is unclear how the use of the pavilion building's first floor gym by residents only, as required by Condition No. 4(b) would be 'policed'. It is therefore asked that the first floor be omitted.

The response received from Vincent Ryan refutes the points raised in the applicants' response to the third-party appeals by reiterating the matters previously discussed in the third party appeal and third party response to the first party appeal. No new matters were raised.

7.0 Assessment

As part of their first party appeal submission, the applicants submitted updated versions of the site layout plan (one in the context of the layout approved under parent permission, Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21, and one in the context of the proposed layout being considered under Reg. Ref. 3420/22 & ABP Ref. ABP-314220-22), prepared by O'Mahoney Pike Architects, illustrating how the requirements of Condition 3(a), (b), (c) and (e) could be complied with in both instances. Further to this, the applicant submitted additional information in response to Vincent Ryan's grounds of appeal. This additional information included the following:

- A response document on the architectural issues raised, prepared by O'Mahoney Pike Architects;
- An Addendum to the Daylight & Sunlight Assessment, prepared by Digital Dimensions; and
- A response to M&E issues raised, prepared by Delap and Waller Ltd.

The applicants ask that they be read in conjunction with the original reports/plans submitted with the planning application. It is noted that the additional material submitted with the appeal/appeal response introduce no new elements or issues which

may be of concern to third parties in the context of the proposed development. Accordingly, this assessment is based on the plans and information received by Dublin City Council on 27th April 2023, as supplemented by further plans and particulars received by the Board on 18th July 2023 and 31st July 2023.

From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- Principal of Development
- Alterations to the western boundary wall of No. 80 Sandymount Avenue and the Appropriateness of Condition No. 3(d)
- Design, Layout and Height/Impact on Visual Amenities
- Residential Amenity
- Open Space Provision
- Built Heritage
- Access and Parking
- Other Matters
- Appropriate Assessment

7.1. Principal of Development

- 7.1.1. The proposed communal amenity pavilion building will serve residents of the apartment development previously permitted, under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21, to the west/north of the subject site and therefore comprises ancillary residential development. 'Residential' is identified as a 'permissible use' under zoning Objectives Z1 and Z12 in Section 14.7 of the Dublin City Development Plan 2022-2028. Under these land use zoning objective, residential development is generally acceptable in principle subject to the proposed development being acceptable in terms of its impact on the visual amenities of the area and the established residential amenities of properties in its vicinity. These matters are considered in the subsequent sections of this report. To ensure that use of the proposed communal amenity pavilion

building is limited to use by the residents of the adjacent apartment development, it is recommended that a condition be attached requiring as such.

7.1.2. With regards to the requirements that a masterplan be prepared/submitted in the context of Z12 zoned land, I note that the application is accompanied by an Architectural Design Statement and a Proposed Site Layout Plan, both prepared by O'Mahoney Pike Architects, which demonstrates how the proposed pavilion building will integrate with the previously permitted development. I consider this to have satisfied the applicable requirement. Compliance with the public open space requirements associated with the Z12 zoned land will be considered in Section 7.5 of this report.

7.2. Alterations to the western boundary wall of No. 80 Sandymount Avenue and the Appropriateness of Condition No. 3(d)

7.2.1. The subject application seeks permission for, among other things, alterations to the curtilage of No. 80 Sandymount Avenue. More specifically, its western boundary has been moved eastwards, with the applicable side and rear garden areas being subsumed in to the neighbouring residential development and used to provide a communal amenity pavilion building and additional communal amenity space, respectively. The amendments to the western boundary of No. 80 Sandymount Avenue's rear garden were considered to be inappropriate by the Planning Authority, the Planners Report including the following commentary in this regard: - *'it is considered that these works would have a significant negative impact on the residential amenity of No. 80 Sandymount Avenue and would be of minimal gain to the permitted scheme'*. In light of this, the Planning Authority saw fit to include Condition No. 3(d) which required that the subdivision of the rear garden of No. 80 Sandymount Avenue be omitted, and the existing rear garden/boundaries be retained to serve this existing dwelling. This redesign was sought to protect existing amenities.

7.2.2. The inclusion of this condition has been a point of contention among the first/third party appellants alike. The first party appellant requests that the board omit Condition No. 3(d) as the new boundary wall was built in early April 2023 under exempted development provisions (Class 5, Article 6, Schedule 2 of the Planning and Development Regulations, 2001-2023), prior to the lodgement of the subject planning

application; and No. 80 Sandymount Avenue maintains a generous sized rear garden (124.8sqm). The boundary wall complying with the exempted development provisions as it doesn't exceed 2 metres in height, it is of concrete blocks and it is not visible from the public realm or public footpath. The third party appellants argue that this condition should be retained and the original rear garden of No. 80 Sandymount Avenue should be reinstated. They contend that the reduction in the size of No. 80 Sandymount Avenue's garden negatively impacts on neighbouring property values, has negative impacts on the residential amenity of No. 80 Sandymount Avenue as well as adjacent properties, restricts No. 80 Sandymount Avenue's development potential, forfeiting the triangular sliver will have no great impact on the 69-unit residential development, and its inclusion in the neighbouring development site would push the overdeveloped residential development closer to No. 80 Sandymount Avenue.

7.2.3. Article 6 of the Planning and Development Regulations, 2001 (as amended), states that: -

(1) Subject to Article 9, development of a class specified in column 1 of Part 1 of Schedule 2 shall be exempted development for the purposes of the Act, provided that such development complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1.

7.2.4. Class 5, Article 6, Schedule 2 of the Planning and Development Regulations, 2001 (as amended), reads as follows:

Column 1	Column 2
Description of Development	Conditions & Limitations
CLASS 5 The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other	1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres. 2. Every wall other than a dry or natural stone wall bounding any garden or other space shall be capped and the face of any wall of

concrete blocks or mass concrete.	concrete or concrete block (other than blocks with decorative finish) which will be visible from any road, path or public area, including public open space, shall be rendered or plastered. 3. No such structure shall be a metal palisade or other security fence.
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7.2.8. Upon review of the material submitted with the application/having visited the subject site, I am of the view that the wall constructed in the western part of No. 80 Sandymount Avenue's rear garden is consistent with the above outlined conditions and limitations.

7.2.9. Article 9(1) of the Planning and Development Regulations, 2001 (as amended), details development to which Article 6 relates and shall not be exempted development for the purposes of the Act. Upon review, I do not find any of the general limitations on exemptions set out under Article 9(1) to be applicable in the context of the wall erected.

7.2.10. Therefore, having regard to the provisions outlined under Articles 6 and 9 of the Planning and Development Regulations, 2001 (as amended), I would deem the construction of this boundary wall to constitute 'exempted development'. In light of this, I find the inclusion of Condition No. 3(d) to be inappropriate in this instance. While I appreciate the Planning Authority/third-party concerns regarding the residential amenity of the future residents of No. 80 Sandymount Avenue, a sizable garden is provided irrespective of the new boundary wall constructed pursuant to Class 5, Article 6, Schedule 2.

7.3. Design, Layout and Height/Impact on Visual Amenities

7.3.1. The appeal site is located on the northern side of Sandymount Avenue. The subject site originally comprised the side garden/part of the rear garden of No. 80 Sandymount Avenue and part of a large landholding (to the north and west) on which it is proposed to construct a residential development, approved under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21. It is proposed to construct a resident's communal amenity pavilion building to serve the residential development permitted under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21 in the part of the site previously comprising No. 80

Sandymount Avenue's side garden and to carry out works to the existing ESB substation featuring in the large landholding.

- 7.3.2. The third-party appellants contend that the proposed communal amenity pavilion building is unsuitable in the context of the streetscape, particularly given it is taller than and the proportions of the front façade differ from that of neighbouring dwellings, as well as due to its contemporary design.
- 7.3.3. The proposed development is 189sqm across 2 floors and extends to a maximum height of 9.84 metres (6.5 metres to the top of the parapet). In terms of building height, Section 4.1 of Appendix 3 to the Dublin City Development Plan 2022-2028 promotes a default position of least three to four storeys, coupled with appropriate density, in locations outside what is defined as city centre. However, there is recognised scope for height intensification and the provision of higher densities on sites well served by public transport. The subject site would constitute such a site, being c. 400 metres north-east of the Sandymount Dart Station and Dublin Bus Stop No. 7599 being located to the front of the site on Sandymount Avenue. The height of the structure proposed is consistent with Development Plan policy and National policy in relation to building heights. In terms of its relationship with adjacent residential dwellings, contrary to the arguments made by the appellants and observer, I contend that the building height of the proposed development is appropriate in the context of the immediately surrounding area. Although the building's front façade is taller than that of Nos. 80 and 82 Sandymount Avenue, the difference in height is minimal at 1.15 metres. Further to this, the site immediately abuts the development approved under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21 which comprises 2 no. 3-5 storey apartment blocks. Of these, the block fronting Sandymount Avenue (Block A.01) is five storeys in height and span for a length of c. 21 metres along the sites Sandymount Avenue frontage. As illustrated in the contextual elevations accompanying the application, the proposed development will sit comfortably adjacent to Nos. 80 and 82 Sandymount Avenue and provide a suitable transition in height to Block A.01 to the west.
- 7.3.4. With regards to building line/streetscape presentation, the proposed communal amenity pavilion building will be setback 6.765 metres from its Sandymount Avenue

frontage and sit c. 0.5 metres forward of the front facades of Nos. 80 and 82 Sandymount Avenue to the immediate east. Upon review of this aspect of the proposal, the Planning Authority expressed concerns about the proposed amenity building not respecting the established building line on Sandymount Avenue/causing a negative impact on the streetscape and the character of the area. In light of this, they saw fit to include Condition No. 3(b), requiring that the structure be redesigned to ensure that the front façade of the building aligns with the existing building line created by Nos. 80 and 82 Sandymount Avenue, in their Notification of Decision to Grant Permission. The inclusion of this condition has been welcomed by the third-party appellants.

- 7.3.5. To the east of the site, Nos. 80 and 82 Sandymount Avenue are set-back from their front boundary by c. 7.3 metres. Further east of these, the front facades of Nos. 84 and 86 Sandymount Avenue are angled in response to their corner position. To the west of the appeal site, the development approved under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21 is setback from its front boundary by c. 17 metres and the Enable Ireland Building by c. 6.5 metres. On the opposite side of Sandymount Avenue, the buildings featuring in this section of Sandymount Avenue (Nos. 89-95 Sandymount Avenue) adopt setbacks from their front boundary of c. 3.8 metres. Although sitting forward of the dwellings featuring at Nos. 80 and 82 Sandymount Avenue to the immediate east, the proposed building line is considered appropriate in this instance having regard to the varied building line featuring in this section of Sandymount Avenue as well as the presence of an ESB substation, developed flush with the site's southern boundary, on the western part of the appeal site. As will be subsequently discussed in detail in Section 7.7, it is recommended that a condition be attached requiring omission of the proposed accessible car parking space/the introduction of landscaping in its place. This will soften the proposed development's presentation to Sandymount Avenue and provide a continuation of the green space that is being provided to the front of the development approved under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21. In terms of streetscape presentation, the proposed development will result in a marked improvement from the c. 2 metre high rendered wall currently developed along the easternmost part of the site's Sandymount Avenue frontage.

7.3.6. The proposed development will be contemporary in design, adopting a part-pitched part-flat roof and featuring brick, stone and slate and composite timber/aluminium windows in terms of materials/finishes. This part of Sandymount is varied in terms of building stock, architectural styles and materiality with re-development having occurred on the Enable Ireland Site in recent years and a large residential development proposed for development immediately west/north-west, pursuant to Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21. More specifically, the subject site sits between the site proposed for redevelopment pursuant to under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21 to the west and No. 80 Sandymount Avenue to the east. In terms of design/materials and finishes, the residential development proposed under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21 is contemporary in design, adopts a flat roof with contemporary pyramid style roof lights and features brick walls in a mix of colours punctuated with metal windows/doors and glazed balconies. No. 80 Sandymount Avenue features a mix of brick and render, has a pitched roof and features timber windows. On the opposite side of Sandymount Avenue, dwellings feature pitched roofs and a mix of brick (in a variety of colours/textures) and render. In terms of materiality/design, I would contend that the pavilion building proposed provides an appropriate response to adjacent buildings. Although the building's front façade adopts a different fenestration pattern, more contemporary architectural detailing (similar to that featuring to that featuring in the residential development proposed under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21) and is slightly taller than that featuring to the east, at Nos. 80 and 82 Sandymount Avenue, I think it will sit comfortably adjacent to these buildings due to the materiality and roof form used. In my opinion, the proposed pavilion building provides an appropriate balance between its eastern and western abutments, will sit comfortably within the existing and emerging streetscape in the context of materials/finishes and will not significantly detract from the visual amenity of this area.

7.3.7. Turning my attention to the proposed developments consistency with 'Plot Ratio' and 'Site Coverage' standards, which I note were of particular concern to one third-party appellants. The proposed development would equate to a plot ratio of 0.56 and a site coverage of 31.5% in the context of the appeal site which falls short of the Development Plan requirements. When considered in the context of the wider development site (comprising the appeal site and the development site associated

with Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21, minus the overlapping area), which I equate to an area of c. 3930 sqm, the proposed development would result in an overall plot ratio of 1.47 and a site coverage of 45.6%, which is consistent with the requirements outlined in the Development Plan. I think the extent of development proposed as part of the subject application is appropriate having regard to the development permitted on the wider development site it forms part of and having regard to the sensitive residential abutments to the east and south.

- 7.3.8. There is one further aspect of the proposed development that requires consideration. That is the works proposed to the existing ESB substation. Currently, a 6.96 metre wide/3.25 metre tall rendered ESB substation features along the subject site's Sandymount Avenue frontage. It is proposed to reclad, reroof, and extend this existing structure to accommodate an additional 4.3sqm switch room. The resulting structure will be 8.07 metres wide (10.54 metres wide if including the canopy roof proposed), 3.53 metres tall and feature stone cladding along the subject site's Sandymount Avenue frontage. Access continues to be provided to the substation via doors featuring on the structure's northern façade, with access to the switch room extension provided via doors featuring on the eastern façade. Contrary to the views expressed by third parties, I am of the view that the proposed works to the ESB substation improve the appearance of the existing structure featuring on site and welcome the shelter offered by the canopy roof adopted. Although increasing its size, on balance the proposed works to the substation structure improve the existing situation on site in this regard.
- 7.3.9. On a related note, Vincent Ryan contends that the proposed switch room falls short of ESB requirements and will be dangerous to those entering/exiting the site using the adjacent path. Therefore, he asks that this element be relocated to a more suitable place on site or be refused. Compliance with ESB requirements is not a planning matter. Notwithstanding this, in response to concerns raised, the applicant's response is accompanied by a response to M&E issues raised, prepared by Delap and Waller Ltd, which assesses its suitability/outlines the ESB's support for the same.

7.4. Residential Amenity

- 7.4.1. The primary issue raised by the third-party appellants is that the proposed development will have a negative impact on the residential amenities of adjacent properties.

Properties to the East

- 7.4.2. The site is bounded to the immediate east by No. 80 Sandymount Avenue which comprises one of a pair of double storey semi-detached dwellings. Nos. 82 and 84 Sandymount Avenue, the residences of the third-party appellants, are located to the east of No. 80 Sandymount Avenue. Before considering the proposed development's potential impacts in terms of overlooking, overbearing and overshadowing on properties to the east, I think it beneficial to note changes that have been made to No. 80 Sandymount Avenue since the plans accompanying the application were prepared. More specifically, the outside shed/toilet, outside utility room and an attached sunroom, featuring to the rear of the dwelling, have been demolished. As detailed in the appellants response to the third-party appeal lodged by Vincent Ryan, their removal constitutes exempted development pursuant to Class 50, Article 6, Schedule 2 of the Planning and Development Regulations, 2001 (as amended).
- 7.4.3. With regards to the potential overlooking of these properties to the east, upon review of the plans submitted with the application, the eastern and northern façades of proposed communal amenity pavilion building are devoid of windows at first floor level, save for a window serving the stairs landing, so there are no opportunities for overlooking of adjacent open space areas to the east. I note that there are no directly opposing habitable windows featuring at first floor level of No. 80 Sandymount Avenue requiring consideration, the windows featuring serving a bathroom and landing. Contrary to the view expressed by one of the third parties, windows of this nature do not require consideration in terms of overlooking.
- 7.4.4. The proposed communal amenity pavilion building is to be introduced in an area previously forming part of No. 80 Sandymount Avenue's side garden/devoid of development. As per the application material submitted, the proposed communal amenity pavilion building is two storeys in height, is developed on the new common boundary with No. 80 Sandymount Avenue for a length of 13.83 metres and is setback a minimum of 1.35 metres from No. 80. Sandymount Avenue's western façade. The Planning Authority raised concerns about the proposed pavilion building's proximity to its immediate eastern abuttal. The Planners Report including the following commentary in this regard: - *'there is no separation distance proposed between the gable of the proposed amenity building and the amended boundary with No. 80 Sandymount Ave. The rear of the proposed building immediately adjoins the existing*

sheds at No. 80. It is considered that this limited separation distance is insufficient to maintain and protect the residential amenity of the existing dwelling’. Considering this, they saw fit to include Condition No. 3(c) requiring the structure be redesigned to provide a minimum separation distance of 2.8 metres between the side of the proposed structure and the side elevation of No. 80 Sandymount Avenue. This condition was welcomed by the third party appellants.

7.4.5. I would share the concerns raised by the Planning Authority/third party appellants that the proposed pavilion building would have a negative overbearing impact on the dwelling at No. 80 Sandymount Avenue, particularly in the context of its ground floor west-facing living room. Although this room is triple aspect, its northern and southern façade’s feature highlight windows, its west-facing window providing its primary outlook. At 2 storeys, the pavilion building’s eastern façade will appear imposing when viewed from this west-facing window which is setback a mere 1.4 metres from the common boundary. It is not considered that this aspect of the proposed development necessitates refusal in its entirety/or omission of its first floor, as suggested by third parties, but rather inclusion of a condition requiring a more generous separation distance from the common boundary with No. 80 Sandymount Avenue. I consider the adoption of a more generous setback will reduce the proposed development’s overbearing impacts on the dwelling featuring at No. 80 Sandymount Avenue to the immediate east. Therefore, it is recommended that a condition, similar to Condition No. 3(c) included on the Planning Authority’s Notification of Decision to Grant Permission, requiring a minimum separation distance of 2.8 metres be included on the Board’s Order.

7.4.6. In the context of the rear gardens serving Nos. 80, 82 and 84 Sandymount Avenue, given the scale of the proposed pavilion building, the incorporation of a flat roof in the northernmost part of the building, the separation distances between the proposed building and these adjacent gardens to the east and the depth of adjacent gardens, I do not consider the proposed development would result in unreasonable overbearing of properties to the east. It is worth noting that the adoption of the aforementioned condition, requiring the eastern façade to be setback from the common boundary with No. 80 Sandymount Avenue, will further reduce the visual impact of the proposed pavilion building when viewed from these gardens.

7.4.7. Given the orientation of adjacent dwellings to the east of the proposed development, the depth of the proposed communal amenity pavilion building and the adoption of a flat roof form in the northernmost part of the building, I do not consider the proposed development would result in any unreasonable impacts on the residential amenity of adjacent properties to the east by way of overshadowing. The application is accompanied by a Daylight & Sunlight Assessment and the first party appellant's response to the third-party appeal lodged by Vincent Ryan by an Addendum to the Daylight & Sunlight Assessment, both prepared by Digital Dimensions. I have had regard to the Addendum to the Daylight & Sunlight Assessment in carrying out my assessment as it reflects the revised rear garden serving No. 80 Sandymount Avenue following the amendments carried out to its curtilage, the current building footprint/layout of No. 80 Sandymount Avenue and the additional setback from the eastern boundary necessitated by Condition No. 3(c) of the Planning Authority's Notification of Decision to Grant permission (which I have also chose to adopt as per the preceding section of this report). The Daylight & Sunlight Assessment submitted with the application was based on No. 80 Sandymount Avenue inclusive of the outside shed/toilet, outside utility room and an attached sunroom which have subsequently been removed. The addendum concludes that No. 80 Sandymount Avenue's garden achieves *'in excess of 2 hours sunlight over 50% of the amenity space and will continue to achieve in excess of 2 hours sunlight over 50% of the amenity space on the 21st March. The proposed development meets the recommendations of the BRE Guidelines.'* I am satisfied that this assessment is accurate. In terms of Nos. 82 and 84 Sandymount Avenue, shadows cast by the proposed development will be confined to the appeal site, larger development site located to the west/north-west and the rear garden of No. 80 Sandymount Avenue. Therefore, I do not consider the proposed development will have an unreasonable impact on this property in terms of overshadowing.

7.4.8. Turning my attention to the potential impacts on daylight/sunlight received by the dwellings to the east resulting from the proposed development. Upon review of the Daylight & Sunlight Assessment accompanying the application, the Planning Authority raised concerns about the proposed developments impact on daylight/sunlight received by No. 80 Sandymount Avenue outlined therein. The Planners Report including the following commentary in this regard: - *'the submitted sunlight and daylight*

assessments found that the proposed development would have a significant negative impact on the Vertical Sky Component (VSC) of the two ground floor windows on the east façade of No. 80 Sandymount Avenue. It is considered that by moving the proposed structure from the shared boundary by 1.5 metres and by aligning the structure with the established building line, as is discussed above, that potential impacts on daylight and sunlight would be reduced'. In light of this, they saw fit to include Condition No. 3(c) requiring the structure be setback to provide a minimum separation distance of 2.8 metres between the side of the proposed structure and the side elevation of No. 80 Sandymount Avenue. I note that the findings of this original assessment were based on the layout of No. 80 Sandymount Avenue inclusive of the outside shed/toilet, outside utility room and an attached sunroom which have subsequently been removed. As previously mentioned, the first party appellant's response to the third-party appeal lodged by Vincent Ryan was accompanied by an Addendum to the Daylight & Sunlight Assessment, prepared by Digital Dimensions. It reflects the current building footprint/layout of No. 80 Sandymount Avenue i.e. with the outside shed/toilet, outside utility room and an attached sunroom omitted as well as the additional setback from the eastern boundary necessitated by Condition No. 3(c) of the Planning Authority's Notification of Decision to Grant permission (which I have also chose to adopt as per the previous section of this report). I will have regard to this in carrying out my assessment.

- 7.4.9. With regards to potential impacts on daylight/sunlight received by windows featuring on No. 80 Sandymount Avenue's western facade, the addendum considered the proposed development's impact on Vertical Sky Component (VSC) and Minimum Illuminance Levels (MIL). In terms of VSC, it found that 4 no. ground floor windows (associated with 2 no. associated with the west-facing living room, 1 no. with the dining room and 1 no. with the kitchen) are reduced below the recommended VSC levels with all other windows meeting the recommendations of the BRE Guidelines in this regard. On balance, the proposed impact on No. 80 Sandymount Avenue is not considered unreasonable in terms of daylight/sunlight provision as the applicable rooms are all dual or triple aspect, comply with the MIL outlined in the BRE Guidelines and given the area's urban context. In the context of No. 82 Sandymount Avenue, all windows assessment were found to be compliant with the BRE Guidelines. Given, No. 84 Sandymount Avenue is positioned further east again, it is reasonable to conclude that

its windows would also comply with the BRE Guidelines based on the findings of the addendum. I am satisfied that the proposed development will not have an unreasonable impact on the daylight/sunlight received by these properties.

Properties to the South

7.4.10. To the south of the subject site, on the opposite side of Sandymount Avenue, is a row of double storey terraced and semi-detached dwellings, Nos. 89-95 Sandymount Avenue. Given the height/scale of the proposed communal amenity pavilion building, the limited extension proposed to the existing ESB substation (1.12 metres of an extension to the southern façade, 3.58 metres inclusive of the canopy), the orientation of these adjacent dwellings relative to the subject site and the 22.2 metre separation distance that exist between the proposed development and the dwellings featuring on the opposite side of Sandymount Avenue, I do not consider the proposed development would result in any negative impacts on the residential amenity of adjacent properties to the south by way of overlooking, overshadowing or overbearing.

Apartments Approved under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21

7.4.11. 58 no. apartments have been approved by the Board, under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21, to the north-west and north of the proposed communal amenity pavilion building. More specifically, the proposed communal amenity pavilion building is located immediately south-east of Block A.01 of the approved apartment development. Consideration of potential impacts on residential amenity of approved south-east facing apartments featuring in Block A.01 is required in the context of the subject proposal. The proposed communal amenity pavilion building sits forward of Block A.01's front façade and adopts a minimum setback of 10.9 metres from its south-eastern façade.

7.4.12. Turning my attention firstly to overlooking. Due to its positioning to the front of the site, the windows featuring along the proposed communal amenity pavilion building's western façade will have an outlook across the public open space area provided under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21 as opposed to windows/balconies serving the apartments featuring in adjacent Block A.01. With regards to the potential overbearing impacts, it is not considered that the communal amenity pavilion building

proposed will have an unreasonable overbearing impact on the apartments to the west and north due to its 2-storey height and the separation distance provided. Similarly, due to its height and positioning relative to the apartment development approved under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21, the proposed communal amenity pavilion building will not result in unreasonable overshadowing of this abuttal. As illustrated in the Daylight & Sunlight Assessment, prepared by Digital Dimensions, accompanying the application resultant shadows will generally be confined to the subject site or a small area of the communal open space area featuring adjacent to Block A.01's south-eastern façade, which comprises mainly of pedestrian pathways. Having regard to the foregoing, I am satisfied that the proposed pavilion building will not have an unreasonable negative impact on the residential amenity of south-east facing apartments approved under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21. Given the subject proposal is in fact for use by the residents of this development, the proposed pavilion building will improve residential amenity of this apartment development more broadly.

7.5. Open Space Provision

Public Open Space

- 7.5.1. Third-party appellants and observers alike have raised concerns about the proposed development's impact on the Z12 zoned public open space area previously approved in the context of the development approved to the immediate west, under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21. The figures provided by the applicant are queried, it is contended that the proposed ESB substation extension will inappropriately extend into this space and it is argued that if the communal amenity pavilion building is to be setback from No. 80 Sandymount Avenue it will eat in to any public open space gained.
- 7.5.2. Upon review of the site layout plan approved under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21 and that submitted as part of the subject application, the proposed development will result in a modest increase in the public open space area provided along the Sandymount Avenue frontage. This increase is welcomed. The appropriateness of public open space provision across the larger development site has previously been considered by the Board and found to be appropriate in the context of the application under ABP Ref. ABP-309742-21.

7.5.3. Contrary to the view of third parties, I consider the canopy being introduced over part of the public open space to be of benefit to public open space users, providing a degree of shelter/protection from the weather. Turning my attention to the potential requiring that an increased setback be provided from No. 80 Sandymount Avenue by way of condition has to negatively impact on public open space. As previously discussed, similar to the Planning Authority, I have saw fit to include such a condition. In doing so, I have been careful to word my recommended condition in such a way as to require that the building's eastern façade be recessed rather than the building be redesigned so that the western setbacks remain unaltered/any gain in public open space is maintained.

Communal Open Space

- 7.5.4. The proposed development results in amendments to the communal amenity space serving the previously permitted apartment development under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21. More specifically, part of the side and rear gardens previously serving No. 80 Sandymount Avenue has been subsumed into the communal open space serving this development. Although the increase resulting is modest, I would agree with the applicant it will improve the communal open space area serving the adjacent residential development/provide improved visual links through the site. The third party appellants requested that this space be returned to the rear garden of No. 80 Sandymount Avenue was previously considered in Section 7.2 of this report.
- 7.5.5. Upon review of the plans submitted, the Planning Authority considered passive surveillance of the adjoining communal amenity area from the proposed communal amenity pavilion building could be improved by way of an extension to the 1st floor window featuring on northernmost façade. In light of this, they saw fit to include Condition No. 3(e) requiring that a ground floor window mirroring the size and dimensions of the proposed 1st floor window on the northern façade be introduced. I would agree that such an amendment to the proposed communal amenity pavilion building would be beneficial from a passive surveillance perspective and benefit users of the communal amenity space. Therefore, it is recommended that the Board's Order include a similar condition.

7.6. Built Heritage

7.6.1. The site's northern boundary flanks the Sandymount Village and Environs Architectural Conservation Area. Therefore, consideration of the impact of the proposed development on the character and special interest of the Sandymount Village and Environs Architectural Conservation Area, is required in this instance. Regard is had to the policies of the Dublin City Development Plan 2022-2028 and the Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011) when assessing this. The application is accompanied by a Conservation Assessment, prepared by Historic Building Consultants. This report, concludes as follows: - *"there will be no impact on the character of the Sandymount Village and Environs Architectural Conservation Area or on the conservation of the area in general arising from the present proposal"*.

7.6.2. The northernmost part of the subject site (the northern section of No. 80 Sandymount Avenue's rear garden), is located immediately south of the ACA. The proposed communal amenity pavilion building is contemporary in design (featuring brick finishes and flat/pitched roof form elements), will be 2 storeys in height and extend to a maximum height of 9.84 metres. It will be located in the southernmost part of the site, c. 20 metres from the ACA's southern boundary, the part of the site immediately abutting the ACA being proposed as an area of communal amenity space. Having regard to the height/design of the proposed building, its positioning on the subject site/along the Sandymount Avenue streetscape (west of 4 no. semi-detached dwellings) and its setback from the ACA, I am satisfied that the character/the special interest of the Sandymount Village and Environs Architectural Conservation Area will remain unchanged and unaffected by the proposal. I, therefore, have no objections to the proposed development in terms of potential impacts on built heritage.

7.7. Access and Parking

7.7.1. The proposed development communal amenity pavilion will be served by 1 no. accessible car parking space, accessible via a new vehicular access introduced along its Sandymount Avenue frontage. The report from the Planning Authority's Transportation Planning Division raised concerns about the proposed car parking space/vehicular access (given the narrow width of Sandymount Avenue and that it is a bus route with bus stops, it was considered a traffic hazard and obstruction to

pedestrians on the public footpath, cyclist and other road users) and recommended that it be removed by way of condition. In light of this, the Planning Authority saw fit to include Condition No. 3(a), requiring its omission, in its Notification of Decision to Grant Permission, as well as Condition No. 4(b) limiting use of the amenity pavilion building to residents only.

7.7.2. The proposed development involves the construction of a communal amenity pavilion building and no additional apartments are proposed as part of this application. The proposed communal amenity pavilion is for resident use only. Having visited the subject site, I would share the concerns of the Planning Authority regarding the introduction of a new vehicular access at this juncture of Sandymount Avenue, which is quite narrow and in close proximity to Dublin Bus Stop No. 7599. Therefore, I think the inclusion of a condition similar to Condition No. 3(a) featuring in the Planning Authority's Notification of Decision to Grant Permission is merited in this instance. Further to this, I would also recommend that a condition be attached by the Board restricting use of the communal amenity pavilion building to residents of the development approved under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21 (or as may be subsequently amended).

7.8. Other Matters

7.8.1. *Flood Risk* – The subject site is located c. 500 metres west of Dublin Bay and c. 700 metres south-east of the River Dodder. It is identified as being within Flood Zone B in the Strategic Flood Risk Assessment prepared as part of the Dublin City Development Plan 2022-2028. The application is accompanied by a letter, prepared by Barry & Partners Consulting Engineers, which discusses various engineering matters including flood risk. It notes that the finished floor level is set at the same height as the granted development, under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21, which was informed by the recommendations of a flood risk assessment. I note that the flood risk assessment, previously prepared in the context of Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21, located the site within Flood Zone A, adopting a conservative approach. Having considered the information available/provided by the applicant, I am satisfied that, given the small scale of the proposed building and its location within an established residential area, the proposed development would not give rise to an increased risk of flooding on the site or other properties in the vicinity.

- 7.8.2. *Fire Safety* – Jeremy & Miranda Humphries contend that the proposal will further limit fire tender access on the site. The requirement of obtaining a fire safety certificate is assessed under a separate regulatory code to that of planning, and as such is not a matter for the Board in its deliberations of this application. However, the application is accompanied by autotracking drawings for fire tenders, prepared by Barry & Partners Consulting Engineers, which illustrates how fire tender access is provided for on site.
- 7.8.3. *Construction Impacts* – Both Vincent Ryan and the observer have raised concerns about the negative impact construction of the proposed development will have on surrounding residents/attendees of the Enable Ireland School including as a result of the duration of the overall build programme and the noise, dust, traffic disturbance and rodent activity that will arise from the same. Given the nature, scale and location of the proposed development, I am satisfied that matters pertaining to construction management can be appropriately dealt with by way of conditions requiring preparation of a Construction Waste and Demolition Management Plan and a Construction and Environmental Management Plan.
- 7.8.4. *Devaluation of Property* - I note that Jeremy & Miranda Humphries raise concerns in respect of the devaluation of properties in the immediate surrounds. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity, subject to condition.

7.9. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 **Recommendation**

- 8.1. Having regard to the foregoing, it is recommended that permission be granted for the proposed development for the reasons and considerations, and subject to the conditions, set out overleaf.

9.0 Reasons and Considerations

Having regard to the zoning objectives applying to the site in the Dublin City Development Plan 2022–2028, the pattern of existing and approved development in the area and the layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development, would represent an acceptable height and design for the site, would be acceptable in terms of the amenities of adjoining properties, would not seriously injure the visual amenities, built heritage or character of the area and would be acceptable in terms of traffic and road safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 on 27th April 2023, 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 proposed development shall be amended as follows:</p> <ul style="list-style-type: none">a) The proposed accessible car parking space and associated vehicular access on Sandymount Avenue shall be omitted and revised landscaping scheme shall be implemented.b) The eastern façade of the communal amenity pavilion building shall be setback to provide a minimum separation distance of 2.8 metres from the side elevation of No. 80 Sandymount Avenue.c) The 1st floor window on the communal amenity pavilion building's northern façade (serving the stairwell) shall be extended vertically to ground floor level.

	<p>Revised drawings showing compliance 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 pedestrian safety and residential amenity.</p>
3.	<p>Prior to the commencement of development, details of the materials, colours and textures of all external finishes including samples, shall be submitted to and agreed in writing by the Planning Authority.</p> <p>Reason: In the interests of orderly development and the visual amenities of the area.</p>
4.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.</p> <p>Reason: In the interest of residential and visual amenity.</p>
5.	<p>The use of the communal amenity pavilion building shall be limited to the residents of the development approved under Reg. Ref. 2800/20 & ABP Ref. ABP-309742-21 (or as may be subsequently amended).</p> <p>Reason: In the interest of residential amenity.</p>
6.	<p>The management and maintenance of the proposed communal amenity pavilion building following its completion shall be the responsibility of a legally constituted management company. A management scheme for the same 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>
7.	<p>Water supply and 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/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
9.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <ul style="list-style-type: none"> (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. <p>The assessment shall address the following issues:</p> <ul style="list-style-type: none"> (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material. <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
10.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>

11.	<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>
12.	<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 the proposed basement, inclusive of hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
13.	<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 and the developer or, in default of such agreement, the matter shall be</p>

	<p>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>
14.	<p>Site development and building works shall be carried out only between the hours of 0800 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 where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
15.	<p>The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developers expense.</p> <p>Reason: To ensure that the adjoining roadways are kept in a clean and safe condition.</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.

Margaret Commane
Planning Inspector

30th November 2023