



An  
Bord  
Pleanála

## Inspector's Report ABP-317983-23

<b>Development</b>	2 detached houses with on site car parking and associated site works in existing garden.
<b>Location</b>	Existing garden at Cois Cuan, 45A Pigeon House Road, Dublin 4, D04 V4F3.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	5180/22
<b>Applicant(s)</b>	Kevin Moloney & Catriona Weafer
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Harriet & Colm Hughes Georgina Scally & Laurance Nesbitt Pigeon House Road Residents
<b>Observer(s)</b>	N/A
<b>Date of Site Inspection</b>	5 <sup>th</sup> March 2024

**Inspector**

Conor Crowther

## **1.0 Site Location and Description**

- 1.1.1. The site is situated within a garden area to the side of no. 45A Pigeon House Road (Cois Cuan), which is a two storey gambrel roof dwelling with a single storey flat roof extension to the side (north) and a single storey part pitched roof extension to the side (south). The site area measures approximately 325m<sup>2</sup> and is accessed via a narrow laneway approximately 60m in length from Pigeon House Road. The site is situated to the rear of nos.46-48 Pigeon House Road which front onto Pigeon House Road itself. The site is located approximately 2.9km east of Dublin City Centre, within the Local Authority area of Dublin City Council.
- 1.1.2. The site is bounded to the north by the rear gardens of nos.46 & 47 Pigeon House Road and by a paved communal area attached to said dwellings, to the south by the existing two storey dwelling at 45A Pigeon House Road, to the west by a pedestrian laneway entrance to Ringsend Park and to the east by the narrow access laneway from Pigeon House Road and by the site of Bayview Cottage. The surrounding area is predominantly suburban in nature, set within an urban area given the proximity to the city centre. Ringsend Park amenity area lies to the south and Dublin Port to the north of the proposed development.

## **2.0 Proposed Development**

- 2.1.1. The proposed development is described as follows:
- Construction of 2 No. two storey three bedroom detached dwellings.
  - Provision of 2 no. onsite parking spaces.
  - Partial existing tree removal with new landscaping and planting.
  - Retention of existing boundaries with partial demolition of existing low stone wall and gate.
  - Onsite surface water disposal and new foul sewer and water services connections.
- 2.1.2. It should be noted that the proposal was altered at Further Information (FI) stage to include improvements to the access laneway and alteration to the red line boundary to cover same, the provision of a new fire hydrant within the access laneway

adjacent to the proposed dwelling and also to slightly alter predicted access to House no.1 via swept path analysis.

2.1.3. The application is accompanied by:

- Pre-Planning Application to Dublin City Council.
- 3D images of the proposed development.
- Design Statement/Report.
- Arboricultural Assessment.
- Landscaping Plan.
- Tree Constraints Plan.
- Tree Removal & Protection Plan.
- Tree Assessment Plan.
- Preliminary Construction Management Plan (FI).
- Shadow Study (FI).
- Drainage & Site Services Report (FI).
- Swept Path Analysis (FI).
- Topographic Survey (FI).
- Flood Risk Report (FI).
- Adjoining landowner's letter of consent to access laneway improvements (FI).

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. Dublin City Council (The Planning Authority) issued a FURTHER INFORMATION request on the 5<sup>th</sup> January 2023 relating to overshadowing, drainage, flood risk, access and transportation issues. The Planning Authority subsequently issued a GRANT of permission for the above-described proposed development on the 23<sup>rd</sup> August 2023, subject to 12 no. conditions. Conditions of note include:

- Condition 7(a) requiring submission and agreement of a lighting proposal for the privately managed access laneway prior to the completion and occupation of the permitted development.
- Condition 7(b) requiring submission and agreement on a Construction Traffic Management Plan addressing the width and construction of the access lane and the structural integrity of adjoining properties.
- Condition 7(c) requiring the resurfacing of the full length of the laneway prior to occupation of the development.

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

#### **3.2.1. Planning Reports**

3.2.2. The Planning Officer's Report dated 5<sup>th</sup> January 2023 requested FI on 4 items.

3.2.3. The Planning Officer's report concluded that the principle of development was acceptable, the standard of private open space and separation distances to neighbouring dwellings was considered to be acceptable, along with the design and finishes of the dwellings. The Planning Officer noted that the proposed development could lead to oblique views of surrounding dwellings but that this would not lead to a negative impact on residential amenities. Whilst a category A and 3 no. category C trees would be removed, the planning officer found the compensatory planting to be of sufficient standard. The density, plot ratio and site coverage of the proposed development was also considered to be acceptable given the location of the site within a Strategic Development Regeneration Area. Notwithstanding this, the planning officer sought FI on the above items.

3.2.4. On the 5<sup>th</sup> July 2023 an extension of time to allow for a response to the further information request was granted by the planning authority, upon request by the applicant.

3.2.5. The Planning Officer's Report dated 23<sup>rd</sup> August 2023 concluded that the responses to the FI request addressed the concerns raised in the FI request in that they would not lead to significant overshadowing of adjacent amenity space, the majority of the proposed water infrastructure works would occur outside of tree root protection areas, drainage and transportation concerns would also be satisfactorily addressed.

3.2.6. Other Technical Reports

3.2.7. Transportation – Following analysis of submitted FI documentation, on the 15<sup>th</sup> August 2023, the Transportation Department issued a report citing no objection to the proposed development, subject to 5 no. conditions.

3.2.8. Drainage – Following analysis of submitted FI documentation, on the 11<sup>th</sup> August 2023 the Drainage Department issued a report citing no objections to the proposed development, subject to a number of considerations.

3.3. **Prescribed Bodies**

3.3.1. Irish Water/Uisce Eireann – no response received.

3.3.2. TII - The site lies within the area of the Section 49 Luas Red Line Docklands Extension (C1 Line) Contribution Scheme. If the development is not exempt, a Section 49 Contribution should be added.

3.4. **Third Party Observations**

3.4.1. 4 no. 3rd party observations were received in response to the original application submitted to the Planning Authority. The issues raised by observers are mostly covered in the grounds of appeal and also raise the following:

- The proposed development represents overdevelopment of the site.
- A surface water management plan has not been submitted, as required by the Development Plan.
- There is no indication of how the use of the access laneway by the residents of nos.47-51 Pigeon House Road would be protected during construction and operation of the proposed development.
- No overshadowing study has been provided.
- Proposed tree and shrubbery removal is contrary to the provisions of the Development Plan.
- The proposed development is commercially led.

## 4.0 Planning History

### Wider Subject Site:

- 4.1.1. 0048/21 – Pre-app discussions held with Dublin City Council for the proposed development of 2 no. two storey dwellings.
- 4.1.2. 5217/22 (ABP Ref. 318029-23) – Construction of 1 no. two bed part single, part two storey dwelling of circa 238 sq.m gross floorspace to the front (north) of the existing dwelling (Bayview Cottage) on the site, including creation of private open space, 2 no. parking spaces and a new vehicular entrance granted permission by the Planning Authority, subject to 3<sup>rd</sup> party appeal to the Board (This is a separate application subject to a concurrent appeal).
- 4.1.3. 5112/22 (ABP Ref. 318030-23) – Demolition of existing dwelling at Bayview Cottage, 45B Pigeon House Road, construction of a detached, 3-bedroom single storey dwelling (131.60sq.m.) together with 10 no. associated roof lights, provision of 1 no. parking space granted permission by the Planning Authority, subject to 3<sup>rd</sup> party appeal to the Board (This is a separate application subject to a concurrent appeal).
- 4.1.4. 4110/15 - Permission GRANTED on the 10<sup>th</sup> March 2016 for single storey extension to the side of the existing dwelling at no. 45A Pigeon House Road with first floor roof terrace, new windows at first floor level and new boundary walls including new driveway gates.
- 4.1.5. 2675/97 - Permission GRANTED on the 10<sup>th</sup> February 1998 for construction of a two-storey dwelling and consolidation of part of existing boundary walls on a site within the curtilage of Bayview Cottage. This permission was implemented and comprises the dwelling known as 'Cois Cuan'.

### Neighbouring Sites of relevance:

- 4.1.6. ABP 317679-23 - Ringsend to City Centre Core Bus Corridor Scheme (BusConnects Scheme). This application is being considered by the Board at the time of writing.
- 4.1.7. WEB1248/22 – Permission GRANTED on the 27<sup>th</sup> June 2022 for new pedestrian access gate at no. 48 Pigeon House Road and new boundary railing between adjoining properties nos. 48 & 47 Pigeon House Road.

## 5.0 Policy Context

### 5.1. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2023

5.1.1. These recently adopted ministerial guidelines serve to implement the principles of sustainable residential development in urban areas. The guidelines encourage the following approaches:

- Residential densities in the range of 50 dph to 250 dph (net) shall generally be applied in urban neighbourhoods of Dublin.
- The quantum of car parking in new developments should be minimised to manage travel demand and to ensure that vehicular movement does not impede active modes of travel or have undue prominence within the public realm.
- SPPR 1 – Separation Distances – ‘It is a specific planning policy requirement of these Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level’.
- SPPR 2 – This SPPR sets minimum private open space standards as follows:
  - 3 bed house 40 sq.m
- Policy and Objective 5.1 - Public Open Space – ‘In some circumstances a planning authority might decide to set aside (in part or whole) the public open space requirement arising under the development plan..... In such circumstances, the planning authority may seek a financial contribution within the terms of Section 48 of the Planning and Development Act 2000 (as amended) in lieu of provision within an application site’.
- SPPR 3 - Car Parking – ‘In city centres and urban neighbourhoods of the five cities....car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling’.



- Section 5.2.5 - Bicycle Parking and Storage - 'In areas of high and medium accessibility, planning authorities must ensure that new residential developments have high quality cycle parking and cycle storage facilities for both residents and visitors'.
- SPPR 4 - Cycle Parking and Storage – 'All new housing schemes (including mixed-use schemes that include housing) include safe and secure cycle storage facilities to meet the needs of residents and visitors.
- 'Planning authorities do not need to undertake a detailed technical assessment in relation to daylight performance in all cases. It should be clear from the assessment of architectural drawings (including sections) in the case of low-rise housing with good separation from existing and proposed buildings that undue impact would not arise, and planning authorities may apply a level of discretion in this regard'.

## 5.2. Dublin City Development Plan 2022-2028

5.2.1. The following are policies and objectives of relevance to the proposed development from the Dublin City Development Plan:

- Zoning Objective Z1 (Sustainable Residential Neighbourhoods) – 'To protect, provide and improve residential amenity'.
- Zoning Objective Z2 (Residential Neighbourhoods – Conservation Areas) – 'To protect and/or improve the amenities of residential conservation areas'. This covers lands to the north of the site traversed by the shared access laneway.
- Section 13.8 - Strategic Regeneration Development Area 6 - Docklands - including SDZ area and Poolbeg West – encourages the expansion of the population and integration of residents and communities.
- The following policies of the Development Plan are relevant to the proposed development:
  - Policy SC12 – Housing Mix.
  - Policy QHSN6 – Urban Consolidation.
  - Policy SI15 - Site-Specific Flood Risk Assessment

- Policy GI41 - Protect Existing Trees as Part of New Development
- Section 15.8.6 requires a minimum of 10% of the overall site area to be allocated for public open space in residential developments within zoning Z1. However, a financial contribution can be sought in lieu of this.
- Section 15.13.4 states that applications for backland housing should consider the following:
  - Compliance with relevant residential design standards in relation to unit size, room size, private open space etc.
  - Provision of adequate separation distances to ensure privacy is maintained and overlooking is minimised.
  - That safe and secure access for car parking and service and maintenance vehicles is provided.
  - The scale, form and massing of the existing properties and interrelationship with the proposed backland development.
  - The impacts on either the amenity of the existing properties in terms of daylight, sunlight, visual impact etc. or on the amenity obtained with the unit itself.
  - The materials and finishes proposed with regard to existing character of the area.

Piecemeal backland development with multiple vehicular access points is not encouraged. Where multiple backland developments are proposed within close proximity, amalgamation will be encouraged to provide for a more comprehensive backland development.

- Appendix 3 (Achieving Sustainable Compact Growth Policy for Density and Building Height in the City) – Given that the site is located outside the canal belt the following standards apply:
  - Density range of 60-120 units per ha.
  - An indicative plot ratio range of 1-2.5.
  - A site coverage range of 45-60%. Higher ratios can be applied under certain circumstances.

### 5.3. Natural Heritage Designations

5.3.1. The following sites are located in the surrounding area of the proposed development:

Proposed Natural Heritage Area (pNHA):

- Grand Canal (002104) – approx. 817m
- South Dublin Bay (000210) - approx. 823m
- North Dublin Bay (000206) - approx. 1.3km
- Dolphins, Dublin Docks (000201) - approx. 1.41km
- Royal Canal (002103) – approx. 1.56km

Special Protection Area (SPA):

- South Dublin Bay and River Tolka Estuary (004024) – approx. 837m
- North Bull Island (004006) - approx. 3.5km
- North-West Irish Sea (004236) – approx. 4.6km

Special Area of Conservation (SAC):

- South Dublin Bay (000210) – approx. 818m
- North Dublin Bay (000206) - approx. 3.5km

### 5.4. EIA Screening

5.4.1. Having regard to the limited nature and scale of the proposed development, and the location of the site within a serviced urban area at a remove from areas of environmental sensitivity, 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 stage (see Appendix 2) and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. 3 no. 3<sup>rd</sup> party appeals were submitted to the Board by the following appellants opposing the decision of the Planning Authority to GRANT permission:

- Harriet & Colm Hughes, 48 Pigeon House Road.
- Georgina Scally & Laurance Nesbitt, 47 Pigeon House Road.
- Pigeon House Road Residents
  - Audrey O'Connor & Anthony Gleeson, 46 Pigeon House Road.
  - Georgina Scally & Laurance Nesbitt, 47 Pigeon House Road.
  - Colm & Harriet Hughes, 48 Pigeon House Road.
  - Grainne Hughes & Alan Coffey, 49 Pigeon House Road.
  - Tania Banotti, 50 Pigeon House Road.
  - Jacinta & Greta Murphy, 51 Pigeon House Road
  - Vicky & Liam Bannable, 137 Ringsend Park.

6.1.2. The grounds of appeal are summarised as follows:

- The intensification of traffic along the access laneway will further deteriorate the fragile condition of the side gable wall of nos.48 & 49 Pigeon House Road.
- The proposed location of the fire hydrant within the access laneway would contravene the requirements of Uisce Eireann/Irish Water which states that a watermain needs to be a minimum distance of 3m from a habitable building.
- No ambulances can access the development without removing the side gutter of no.48 or the downpipe of no.49 Pigeon House Road.
- The dimensions provided by the applicant of the laneway are inaccurate.
- The proposed access laneway is wholly inadequate.
- No footpath is provided as part of the access which would result in a conflict between road users.

- The proposed development will result in overspill parking and obstruction.
- The proposed development will set an undesirable precedent.
- Not in compliance with provisions of the Dublin City Development Plan with regard to safe vehicular access and backland development.
- The applicant has not assessed the potential for the proposed development to structurally damage existing neighbouring dwellings. A structural assessment of adjoining properties on Pigeon House Road undertaken by Barrett Mahony Consulting Engineers on behalf of the appellants is submitted which shows existing structural concerns with adjoining properties which are likely to be exacerbated by the proposed development.
- Unclear whether the applicant has sufficient control of the lane to carry out any relevant remedial works.
- The proposed development will lead to significant negative impacts on the residential amenity of existing neighbouring dwellings due to loss of privacy, overlooking, loss of visual amenity, loss of sunlight, traffic hazard and light pollution.
- The applicant has indicated that the most restricted part of the access laneway lies outside the control of the applicant. This is a determining factor in assessing the accessibility of the site for emergency vehicles.
- The proposed development contravenes the Building Regulations.
- Contested ownership of boundary walls to the north of the site.
- The results of the shadow analysis undertaken by the applicant at FI stage are contested. They do not include a cumulative assessment of the proposed development to the east on the lands of no.45A Pigeon House Road.
- The provision of a new fire hydrant on the access laneway would be unnecessary as there is already a fire hydrant on Pigeon House Road.
- Local Authority fire services have not been afforded the opportunity to assess the proposed development.
- No emergency services access arrangements exist for the existing dwellings.

- Lighting along the access laneway would have a detrimental impact on the residential amenities of existing residents.
- Ownership of the access laneway is contested by the residents of nos.46-51 Pigeon House Road who are not in agreement to a variation of any of their rights in this respect.
- The applicant's swept path analysis of the accessibility of the site for an ambulance is not reflective of the true width of an ambulance.
- The construction traffic management plan does not allow for access to the site of heavy construction vehicles and is not reflective of the existing road network.
- No traffic safety or quality audit of the access laneway has been submitted by the applicant.
- The existing dwellings along Pigeon House Road are constructed on reclaimed land consisting of fine sand. This has not been assessed by the applicant.
- The benefit of the proposed development to the applicant must be balanced against the potential negative impact on the adjacent dwellings.
- Inadequate refuse collection arrangements are proposed and there is no visitor parking proposed.
- The proposed development is non-compliant with the relevant residential design standards in relation to unit size, room size and private open space.
- The east-west orientation of the proposed dwellings is not in keeping with the orientation of existing dwellings in the vicinity.
- Sunlight and daylight access for the proposed dwellings is likely to be of a poor standard.
- The materials and finishes proposed are not in keeping with the existing character of the area.
- The proposed development will lead to loss of almost all mature and semi-mature trees onsite.

- The proposed development will be oppressive and overbearing.
- Affected neighbouring dwellings should have sight of and should be able to influence lighting proposals for the access laneway.
- Proposed surface water and foul water drainage arrangements are inadequate in light of the need for a new drainage connection.
- Parking space dimensions are insufficient to cater for the needs of persons with a disability.

## 6.2. Applicant Response

6.2.1. The response of the applicant to the grounds of appeal can be summarised as follows:

- The motivation of the proposed development is to provide housing for the applicant's children who currently reside with them.
- Removal of the northern boundary wall will not affect any adjoining neighbours use of and passage through the common area to the north of the site. A letter from Lavelle Partners LLP is submitted by the applicant demonstrating ownership of said northern boundary wall.
- According to BRE Guidelines, the overshadowing of adjoining dwellings by the proposed development will be minimal and not significant.
- The applicant contends that 'the existing downpipe to No48 would be routed to the rear of the property for proper collection & drainage to on site soakaways & would address the concern over the available width of the laneway for ambulance access, and similarly if possible the downpipe to No49 to facilitate use of the laneway by all users', as the downpipes currently create an ongoing slip hazard.
- With regard to access to the proposed development for fire services, the applicant proposes the inclusion of access gates to the rear gardens of both new dwellings to allow for access via the public laneway to the west of the site. This would allow for direct access to the site for fire services from Ringsend Park cul de sac.

- Any lighting proposal for the access laneway will be agreed between parties, given the shared nature of the laneway, before agreeing with the Planning Authority.
- An alternative access route for large construction truck movements is suggested, if the proposed access route is not considered acceptable.
- The shared use of the access laneway is noted, and the need to agree with the users of the access laneway before undertaking any works.
- It is contended that incorrectly installed downpipes are discharging water from no.49 Pigeon House Road onto the access laneway which has undermined the foundations of no.48 Pigeon House Road.
- The inhabitants of both nos.48 & 49 Pigeon House Road have both undertaken extensions to their properties in the recent past which involved use of the access laneway for construction purposes.
- The applicant does not intend to inhibit the use of the shared access laneway during construction.
- The proposed backland development has been submitted separately to the adjacent applications on the basis of differing landownership but the common infrastructure to facilitate them has been coordinated, as requested by the Planning Authority.
- In respect of contravention of Development Plan provisions for backland development, the applicant notes that relaxation of some standards may be permitted in the interests of densification and urban consolidation.
- The proposed dwellings comply with residential design standards.
- Car parking space and turning space is in compliance with the provisions of the Development Plan.
- Bin refuse storage is provided within the curtilage of the proposed dwellings with access to the laneway or the suggested alternative collection at Ringsend Park cul de sac.
- The scale, height, building line and general design of the proposed dwellings is considered appropriate in the context of the surrounding area.



- Ringsend Park offers considerable adjacent public open space.
- The proposed development would not lead to any direct overlooking of any front or rear gardens.
- Amendments to the main windows on upper floors facing west and on house 1 facing north are suggested to include directional louvres and obscured glass, if required.
- The dwelling location and massing is a continuation of the existing Ringsend Park terrace from no.137.
- The proposed development does not include treated timber, as suggested.
- The applicant has noted that they also maintain the planting along the northern boundary of the site to allow for access to their post-box.

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

6.3.1. The Planning Authority requests that the Board upholds the decision of the Planning Authority to grant permission. In the event of a grant of permission, the Planning Authority request that the following conditions be applied:

- A Section 48 & 49 contribution condition.
- A condition requiring the payment of a bond.
- A condition requiring the payment of a contribution in lieu of the open space requirement not being met.
- A naming & numbering condition.
- A social housing condition.

### **6.4. Observations**

6.4.1. None received.

## **6.5. Further Responses**

6.5.1. 2 no. responses to the applicant's appeal response were received from Pigeon House Road Residents and Georgina Scally & Laurance Nesbitt. The responses can be summarised as follows:

- The planting located along the northern boundary of the site is exclusively maintained by the residents of no.47 Pigeon House Road.
- The proposed development will have an overbearing impact on no.47 Pigeon House Road.
- The applicants have accepted that their measurements are inaccurate and that the minimum width of the access laneway is 2.04m. They have therefore failed to demonstrate how any emergency vehicles can access the proposed development.
- The applicants have no legal right or entitlement to suggest amendments to property to which they do not own. This is also not a workable solution given that the owners of said properties are party to an objection to the proposed development.
- The rainwater discharging from the shed of no.48 Pigeon House Road does not affect the structural problems at no.49 Pigeon House Road as it is located at a distance from the area effected. Furthermore, the rainwater discharging from this area is considered to be negligible.
- No structural report has been provided by the applicant to support their claims about the impact of the downpipe of no.48 Pigeon House Road on the structure of no.49 Pigeon House Road.
- A fire engine may not be able to access the cul de sac of Ringsend Park as on-street parking is permitted on both sides of the road.
- The proposed alternative access for fire services is haphazard and would not comply with the Building Regulations.
- If the proposed development is granted, along with immediately adjacent developments, 5 no. dwellings would be without adequate access for emergency vehicles.

- The suggested access modifications to the west of the proposed development constitute a material alteration of the original application thereby requiring a new planning application.
- The applicant has not provided any evidence to support their claim that they own the wall along the northern boundary of the site.
- Section 5.13 of the Development Management Guidelines provides that permission should be refused where the applicant does not have sufficient legal interest to carry out a development.
- Proposed works to the downpipes of nos.48 & 49 Pigeon House Road are not within the redline boundary of the proposed development.
- The roof gutter of no.48 Pigeon House Road would need to be removed in order for the width of the access laneway to be increased.
- The proposed alternative access arrangements to the west of the site will have negative impacts on the residents of Ringsend Park, and in particular on the residents of no.137 Ringsend Park. The residents of Ringsend Park have not been afforded the opportunity to comment on these proposals, permission should therefore be refused on the basis of non-compliance with the Planning & Development Act with regard to public consultation.
- The applicants have not provided details to support their proposed alternative construction traffic access arrangements and it is not apparent that they have consulted the Planning Authority on this matter.
- Permission should be refused until such time as the applicant outlines what mitigation works are required to combat existing subsidence issues, which are recognised by the applicant, and necessary legal entitlements to carry out such works are provided.
- The proposed development is contrary to zoning Z1 as it does not protect, provide and improve residential amenities.
- The proposed development is contrary to Section 15.13.4 of the Development Plan with regard to safe vehicular access.

## **7.0 Assessment**

7.1.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Access & Transport
- Residential Amenity
- Design & Layout
- Landscaping & Tree Removal
- Services
- Cumulative Development
- Compliance with Development Plan provisions
- Acceptability of Modifications
- Other Matters

### **7.2. Access & Transport**

7.2.1. The appellants have identified issues with the use of the existing access laneway for access to the site of the proposed development. Notwithstanding the fact that the proposed development for 2 no. additional dwellings will not significantly increase vehicular use of the access laneway, the appellants are concerned with the proposed use of the access laneway for the construction of the proposed development and the accessibility of the site, via the access laneway, for emergency vehicles. Of particular concern to the appellants is the width of the existing access laneway which they claim is too narrow to facilitate accessibility to the site for emergency service vehicles and heavy construction vehicles. The appellants have also expressed concern with existing and potentially future structural issues to the sidewalls of nos.48-49 Pigeon House Road, which border the existing access laneway, and they claim that existing structural issues have been caused by overuse of the access laneway.

- 7.2.2. Improvement works to the southern portion of the access laneway are proposed by the applicant which aligns with that of the improvement works proposed as part of the other applications in the immediate vicinity being considered concurrently with this appeal. The Planning Authority considered the proposed improvement works to be acceptable and did not object to proposed development on the grounds of the unsuitability of the existing access laneway. In response to the 3<sup>rd</sup> party appeal, the applicant suggests that the existing downpipes attached to nos.48 & 49 Pigeon House Road along the access laneway could be repositioned to the rear of said properties to facilitate improved access to the site. The applicant has also proposed alternative access arrangements for fire services via additional access gates to the rear of the proposed dwellings to the west at Ringsend Park. The appellants contend that this represents a material alteration to the plans and particulars and that it will negatively impact residents along Ringsend Park who have not been afforded the opportunity to comment on this aspect of the proposal.
- 7.2.3. Having examined the access laneway on my site visit and having measured the width of the access laneway at its narrowest point, I am in agreement with the applicant that the access laneway is approximately 2.3m wide at its narrowest point, when taking account of existing downpipes fronting onto the access laneway. This allows for accessibility to the site for an ambulance, as demonstrated in the swept path analysis submitted at FI stage. I am not of the view that the applicant has accepted that their measurements are inaccurate and that the minimum width of the access laneway is 2.04m, as suggested by the 3<sup>rd</sup> parties. I do not believe that it is necessary to reposition the existing downpipes located within the access laneway nor do I believe that the neighbouring dwellings will permit the repositioning of said downpipes.
- 7.2.4. I note that the access laneway does not allow for access to the site for fire trucks or similar heavy goods vehicles. In this respect, I note that the applicant has proposed including access gates to the rear of the proposed dwellings to secure access for fire services to the proposed fire hydrant adjacent to the proposed dwellings. Notwithstanding this, I am satisfied with the applicant's commitment to provide a new fire hydrant within the area of the upgraded laneway adjacent to the proposed development, thereby addressing fire safety concerns. Such a hydrant would also serve the existing and proposed development on the access laneway. Although the

applicant has not detailed the exact location of said fire hydrant on a drawing, I am satisfied that this can be addressed by way of planning condition, in the event of a grant of planning permission.

7.2.5. With regard to the construction of the proposed development and the potential impact this may have on the access laneway, I note that the applicant provided a preliminary Construction Management Plan at FI stage. This plan has regard to the three concurrent appeals at this location. The contents of this plan serve to acknowledge existing structural issues to structures bordering the access laneway and proposes measures to avoid potential structural impacts in this regard, including use of specific vehicle types. Having regard to the contents of the Construction Management Plan submitted by the applicant and the structural concerns of the appellants, I consider the measures proposed to be reasonable. I also note that the Construction Management Plan proposes the use of lands within the public domain adjacent to Pigeon House roadway as set down areas and the construction traffic route along Pigeon House Road is currently blocked to through traffic, albeit with moveable barriers. With regard to the latter, the applicant has proposed an alternative construction traffic route which does not require the removal, temporary or otherwise, of bollards preventing through traffic. The Planning Authority, however, have not raised any objections to the original construction traffic route. Having regard to the urban location and road network serving the wider area, I am satisfied that a satisfactory construction traffic route can be agreed with the Planning Authority as part of the finalised Construction Management Plan.

7.2.6. I note that the shared access laneway does not currently benefit from lighting which would inhibit visibility and accessibility in times of darkness due to the confined nature of the laneway. The proposed development provides an opportunity to address the issue of lighting along the shared access laneway, however, the appellants have explicitly stated that they will not agree to the affixing of any structures to their property bordering the shared access laneway. This limits the lighting potential of the laneway to beyond the narrowest point of the laneway, and I believe that an acceptable lighting solution can be implemented beyond this point in the laneway, in the event of a grant of planning permission. Subject to downward facing low level lighting being provided, I don't consider that undue impacts on residential amenity arise in this case. With regard to accessibility, the proposed

development also provides an opportunity to address the surface of the shared access laneway which is proliferated by numerous potholes. As such, I am of the view that the full length of the shared access laneway should be resurfaced, prior to the occupation of the development, in the event of a grant of planning permission.

### **7.3. Residential Amenity**

- 7.3.1. I note that a number of residential amenity concerns were raised by appellants with regard to potential overlooking, overshadowing and the overbearing nature of the proposed development. The applicant was required to submit an overshadowing assessment at FI stage to demonstrate that the proposed development did not overshadow surrounding rear gardens. The assessment concluded that no significant overshadowing occurred as a result of the proposed development, however, the appellants contest that this analysis did not consider the impact on the 2 no. proposed developments in the immediate vicinity of the site being considered concurrently with this application. The Planning Authority's assessment concluded that there were no residential amenity concerns in this regard.
- 7.3.2. Having examined the overshadowing assessment submitted by the applicant at FI stage and considering the appellants' concerns, I am satisfied that the proposed development will not significantly overshadow the surrounding rear gardens of both proposed and existing development.
- 7.3.3. Having analysed the drawings submitted with the original application and at FI stage, it is apparent that the separation distances between the rear facades of nos.46-48 Pigeon House Road and the proposed development are in excess of the minimum 16m separation distances set out in the Compact Settlement Guidelines. In any case, the windows on the northern façade are high level windows in habitable rooms and will not lead to overlooking. The separation distance between the proposed development and the first floor side window of no.137 Ringsend Park appears to be approximately 13m, however this will not impact a habitable room within no.137 Ringsend Park. As such, I do not consider there to be any overlooking concerns with regard to the aforementioned dwellings. This is further supplemented by replacement planting along the western and northern boundary of the site, and the retention of 2 no. category C trees to the rear of the proposed dwellings. I note that the applicant

proposed modifications to the northern façade in response to concerns raised at appeal stage. This is considered in Section 7.9.2 and 7.9.3 of this report.

- 7.3.4. I note that separation distances from the proposed dwellings to neighbouring proposed dwellings in the immediate vicinity are substantially less than that of the separation distance to nos.46-48 Pigeon House Road. Considering that said proposed dwellings have been designed in a somewhat coordinated manner by landowners acting in concert with each other and considering the general orientation and fenestration of the proposed development, I am satisfied that the proposed development will not significantly impact the residential amenities of the future inhabitants of said dwellings and of the proposed development itself. This serves to discount the need for any modifications to address overlooking as described in Section 7.9.3 of this report.
- 7.3.5. Given the orientation and fenestration of the proposed dwellings, the separation distances achieved from existing and proposed developments and the outcome of the applicant's overshadowing assessment, I consider that the proposed development will not significantly overlook or overshadow neighbouring dwellings or their rear gardens.

#### **7.4. Design & Layout**

- 7.4.1. The orientation, materials and finishes of the proposed development have been questioned by the appellants, in that they are of the view that it does not integrate with existing surrounding development. The applicant contends that this design and layout is considered appropriate in the context of the surrounding area. The Planning Authority considered this element of the proposed development to be acceptable.
- 7.4.2. With regard to the proposed materials and finishes, I consider the modern nature of the materials and finishes to be acceptable in the context of surrounding proposed and existing developments; including that of the appellants' rear extensions, some of which exhibit similarly modern materials and finishes.
- 7.4.3. Whilst the orientation of the proposed development differs to that of existing development fronting onto Pigeon House Road and Ringsend Park, the orientation of the existing and proposed development on this backland site aligns with that of the proposed development. Given that the proposed development shares road frontage



with existing and proposed development on the backland site, I consider it appropriate to align with the orientation of these developments.

- 7.4.4. The appellants have also queried the compliance of the proposed development with relevant design standards. The Planning Authority did not consider this to be an issue. Having analysed the drawings submitted with the original application and at FI stage, I am satisfied that the proposed development complies with the Quality Housing for Sustainable Communities 2007 design standards as it provides adequate room sizes, storage space and private open space.

## **7.5. Landscaping & Tree Removal**

- 7.5.1. Landscaping concerns have been raised by the appellants in the context of both tree and shrubbery removal. In this respect, I note that the applicant submitted an Arboricultural Assessment, a Tree Constraints Plan, a Tree Removal & Protection Plan, a Tree Assessment Plan and a Landscape Plan with the original application. Having regard to the provisions of Policy GI41 of the Development and the conclusions of the Arboricultural Assessment submitted by the applicant, I am satisfied that the proposed development complies with this policy provision as it seeks to retain trees onsite, provide adequate replacement planting, establish at least 5 new trees within the confines of the 3 no. proposed developments being considered concurrently and also provides for the reestablishment of a category B tree in a new location. I note that a category A tree will be felled as a result of the proposed development, however, I consider the above measures to be satisfactory and in accordance with the provisions of Policy GI41.
- 7.5.2. I note that the applicant submitted proposed modifications in response to the 3<sup>rd</sup> party appeals which included the addition of access gates to the rear gardens of the proposed dwellings. This does not appear to consider the potential impact on trees retained as part of the original application which would need to be removed in order to facilitate this modification, as proposed. Additionally, these retained trees serve to mitigate the reduced separation distance between the proposed development and no.137 Ringsend Park. Thus, I do not find the proposed modification to be acceptable.

## **7.6. Services**

- 7.6.1. I note that drainage issues were raised by the Planning Authority at FI stage with regard to the potential impact of drainage works on the tree roots of 2 no. retained trees as a result of the proposed connection to the combined sewer to the west of the site draining to Ringsend Park. The applicant submitted drainage design details in response to this which demonstrated that the route of the sewers within the site had been adjusted to minimise any impact on tree root protection areas. The Planning Authority considered that the majority of the drainage works would not impact upon the tree roots of the 2 no. retained trees. In addition, the Planning Authority Drainage Department have not objected to the proposed development. Thus, I am satisfied that the proposed drainage works will not impact on the tree roots of the 2 no. retained trees. Additionally, I note that the site is not located within an area of flood risk, as identified in the Strategic Flood Risk Assessment included within the Development Plan.
- 7.6.2. With regard to the proposed fire hydrant, I note that the appellants have queried compliance with the Uisce Eireann/Irish Water requirement that a watermain needs to be a minimum distance of 3m from a habitable building. None of the competent authorities in this field have raised any objections in respect of the location of the proposed fire hydrant and it is not indicated on the drawings submitted by the applicant. In the event of a grant of planning permission, I am of the view that this can be addressed by way of planning condition requiring the location of the proposed fire hydrant to be agreed with the Planning Authority prior to commencement of development.

## **7.7. Cumulative Development**

- 7.7.1. I note that the proposed development has come before the Board for consideration within a similar timeframe to 2 other separate planning appeals within the immediate vicinity of the site. Namely, Reg. Ref. 5112/22 (ABP Ref. 318030-23) and Reg. Ref. 5217/22 (ABP Ref. 318029-23) adjacent to the site. This allows for the cumulative assessment of said proposed developments.
- 7.7.2. Having regard to the substance of the appeals against all 3 proposed developments, the presumption in favour of compact development within urban locations and the measures proposed by the applicant, I do not consider the cumulative development

of 3 no. applications within this backland site to be of a nature that significantly impacts the surrounding area.

#### **7.8. Compliance with Development Plan provisions**

- 7.8.1. I note the appellants highlighted that the proposed development is not in compliance with the Development Plan provisions with regard to backland development due to the piecemeal nature of the proposed development. The appellants contend that the proposed development represents piecemeal backland development due to its close association with 2 no. separate planning applications in the immediate surrounds of the site. The 1<sup>st</sup> party has stated that the proposed development has been considered in tandem with said applications. The Development Plan discourages piecemeal backland development.
- 7.8.2. Considering the fact that the applicant has engaged with the Planning Authority at an early stage, the preliminary Construction Management Plan submitted allows for the potential construction of the proposed development in tandem with the 2 no. separate planning applications in the immediate surrounds of the site and that a combined approach to access and services has been taken with said separate applications, I am satisfied that the applicant has not proposed piecemeal backland development and has demonstrated the ability to construct the proposed development in tandem with said proposals.
- 7.8.3. The appellants have also specifically referenced non-compliance with Section 15.13.4 of the Development Plan on the basis of unsafe vehicular access for service and maintenance vehicles and for car parking purposes. Notwithstanding this, the applicant's swept path analysis submitted at FI stage demonstrates safe vehicular access for such vehicles. I am therefore satisfied that the proposed development complies with the provisions of the Development Plan in this respect.
- 7.8.4. Considering the above and the preceding assessment of the proposed development, I am satisfied that the proposed development is compliant with Development Plan provisions relating to backland development.

## **7.9. Acceptability of Modifications**

- 7.9.1. I note that the appellant has proposed modifications to the proposed development in response to concerns raised by the appellants. I note that the Planning Authority has not taken the opportunity to provide any comment on the proposed modifications.
- 7.9.2. The proposed modifications consist of modifications to the 1<sup>st</sup> floor windows of House 1 facing onto the western and northern boundary to include directional louvres and obscured glass, additional access gates to the rear of the proposed dwellings providing access to Ringsend Park via the public laneway bounding the site to the west and an alternative construction traffic route. The modifications are proposed to address concerns surrounding overlooking, fire service and heavy construction traffic accessibility.
- 7.9.3. Considering that I have not identified any issues with overlooking of surrounding properties, I am satisfied that the proposed modifications to the 1<sup>st</sup> floor windows of House 1 are not required to address the concerns of the appellants. I am also of the opinion that these proposed modifications would potentially unduly impact the residential amenity of future residents as they will inhibit access to light within living areas.
- 7.9.4. Additional access gates to the rear of the proposed dwellings are proposed by the applicant in response to the appellants' concerns about accessibility to the site of fire service vehicles. As noted earlier in my report, the impact of these proposed access gates on retained trees does not appear to have been considered, and I am of the view that this will lead to the removal of the 2 no. trees originally intended to be retained. In addition, the 3<sup>rd</sup> parties have raised concerns about the potential for this proposed modification to negatively impact the residents of Ringsend Park without any input from said residents. In any case, I am of the view that the location of the proposed fire hydrant within the access laneway adjacent to the proposed dwellings in an area accessible to fire service vehicles from Pigeon House Road is acceptable.
- 7.9.5. With regard to the proposed modified construction traffic access route, I note that the Planning Authority determined that the access route originally submitted would need to be agreed with both the Transportation and Roadworks Department, and I consider that this is achievable by way of planning condition, in the event of a grant of planning permission. I am therefore of the view that a modified construction traffic

route is not necessary on the grounds of the acceptability of the original construction traffic route.

#### **7.10. Other Matters**

- 7.10.1. I note that the appellants have questioned the validity of the applicant's ownership of the access laneway and the boundary wall to the north of the site. The appellants question the right of the applicant to undertake works to the laneway and the northern boundary wall without providing any documentary or legal evidence to support this. Notwithstanding this, the planning authority assessed the proposed development on the basis that the site boundaries provided were correct. In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision by way of provision of a legal submission dated 6<sup>th</sup> October 2023, in response to the 3<sup>rd</sup> party appeals, confirming their ownership of the shared laneway and the boundary wall to the north of the site. Thus, allowing for improvement works to be undertaken along the access laneway such as the instalment of public lighting and resurfacing. In addition, I note that the existing site is accessed via the shared laneway and enjoys a right of way in this respect. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal, and this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

#### **7.11. Appropriate Assessment Screening**

- 7.11.1. I note that the application was not accompanied by a screening report for Appropriate Assessment. I note that the Local Authority undertook Appropriate Assessment Screening and concluded that the proposed development would not significantly impact upon a Natura 2000 site.
- 7.11.2. The site is not located within or immediately adjacent to a European Site but is located within approximately 91m of the River Liffey which drains to the South Dublin Bay & River Tolka Estuary Special Protection Area, the North Bull Island Special Protection Area, the North-West Irish Sea Special Protection Area, the South Dublin Bay Special Area of Conservation and the North Dublin Bay Special Area of Conservation, located between approximately 800m and 4.6km from the site, respectively. There is therefore a likelihood that an indirect hydrological pathway

may develop between the site and a European Site by means of surface water runoff. This indirect hydrological pathway to a marine environment is considered to be insignificant due to the considerable distance and intervening watercourse between the proposed development and the European Site in question. In addition, the Construction Management Plan submitted as part of the proposed development includes standard best practice drainage methods which will reduce the level of surface water runoff during operation and construction stages. No additional operational impacts are anticipated due to the nature of the proposed development.

- [North Bull Island SPA | National Parks & Wildlife Service \(npws.ie\)](#)
- [North Dublin Bay SAC | National Parks & Wildlife Service \(npws.ie\)](#)
- [South Dublin Bay and River Tolka Estuary SPA | National Parks & Wildlife Service \(npws.ie\)](#)
- [South Dublin Bay SAC | National Parks & Wildlife Service \(npws.ie\)](#)
- [North-west Irish Sea SPA | National Parks & Wildlife Service \(npws.ie\)](#)

7.11.5. Given the size and scale of the proposed development, the location of the proposed development in an established urban area that is suitably serviced, and the works involved, I am of the view that the proposed development will not lead to a likely significant effect on the qualifying interests of any nearby European Site.

7.11.7. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

## 7.12. Conclusion

7.12.1. Having regard to the above, I consider the proposed development, as modified at Further Information stage, would be acceptable and would not give rise to drainage, design, landscaping, residential amenity or accessibility concerns. The proposed development, as modified, will positively contribute to the character of the area and allow for the development of a backland site in an accessible area, without negatively impacting existing and future residential amenities unduly. Thus, I conclude that a grant of planning permission should be issued, subject to conditions.

## 8.0 Recommendation

I recommend that planning permission should be GRANTED, subject to conditions, for the reasons and considerations as set out below.

## 9.0 Reasons and Considerations

Having regard to nature of the proposed development, the existing access to the site, the proposed drainage measures, the zoning of the site for residential development, the design and layout and the landscaping of the proposed development, it is considered that subject to the conditions set out below, the proposed development would be acceptable and in accordance with the provisions of the Dublin City Development Plan 2022-2028 and the Sustainable Residential Development and Compact Settlements Guidelines. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area and would not negatively impact on adjacent residential amenities or structures.

## 10.0 Conditions

1.	The development shall be carried out and retained in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted in response to a Further Information
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	<p>Request on the 27<sup>th</sup> day of July 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><b>Reason: In the interest of clarity.</b></p>
2.	<p>Lighting shall be provided beyond the narrowest point of the shared access laneway in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such low level lighting shall be designed as such to be fixed downwards, shall not be affixed to neighbouring properties and shall be provided prior to the making available for occupation of any house.</p> <p><b>Reason: In the interests of amenity and public safety.</b></p>
3.	<p>The works to the laneway as set out in V005-CSC-00-XX-DR-C-0001, and a resurfacing of the full length of the laneway, shall be completed prior to the occupation of the development.</p> <p><b>Reason: In the interest of amenity and of traffic and pedestrian safety.</b></p>
4.	<p>The internal road network serving the proposed development shall comply with the detailed standards of the planning authority for such road works.</p> <p><b>Reason: In the interest of amenity and of traffic and pedestrian safety.</b></p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason: In the interest of visual amenity.</b></p>
6.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.</p>



	<b>Reason: In the interest of public health.</b>
7.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water and the location of a new fire hydrant, shall comply with the requirements of the planning authority for such works and services and shall be agreed in writing with the planning authority prior to the commencement of development.</p> <p><b>Reason: In the interest of public health.</b></p>
8.	<p>(a) All foul sewage and soiled water shall be discharged to the public foul sewer.</p> <p>(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.</p> <p><b>Reason: In the interest of public health.</b></p>
9.	<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><b>Reason: In order to safeguard the residential amenities of property in the vicinity.</b></p>
10.	<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:</p> <p>(a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;</p> <p>(b) Location of areas for construction site offices and staff facilities;</p> <p>(c) Details of site security fencing and hoardings;</p>

	<p>(d) Details of on-site car parking facilities for site workers during the course of construction;</p> <p>(e) Details of the nature, timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;</p> <p>(f) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>(h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>(j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p><b>Reason: In the interest of amenities, public health and safety.</b></p>
11.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the</p>

	<p>developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason: To ensure the satisfactory completion of the development.</b></p>
12.	<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 referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>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.</b></p>
13.	<p>The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of public open space, which benefits the proposed development. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála for determination. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.</p>

	<p><b>Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.</b></p>
14.	<p>The developer shall pay to the planning authority a financial contribution in respect of Luas C1 Red Line Docklands Extension in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</b></p>

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

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Conor Crowther  
Planning Inspector

11<sup>th</sup> April 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	317983-23			
<b>Proposed Development Summary</b>	2 detached houses with on site car parking and associated site works in existing garden.			
<b>Development Address</b>	Existing garden at Cois Cuan, 45A Pigeon House Road, Dublin 4, D04 V4F3.			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	✓	
		<b>No</b>	No further action required	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>				
Yes			EIA Mandatory EIAR required	
No	✓		Proceed to Q.3	
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>				
		<b>Threshold</b>	<b>Comment (if relevant)</b>	<b>Conclusion</b>
No		N/A		No EIAR or Preliminary Examination required
Yes	✓	Class 10(b)(i) and (iv)/ min. 500 dwelling units and/or an area greater than 10 ha		Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: Conor Crowther

Date: 11<sup>th</sup> April 2024

## Appendix 2 - Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	<b>ABP-317983-23</b>	
<b>Proposed Development Summary</b>	2 detached houses with on site car parking and associated site works in existing garden.	
<b>Development Address</b>	Existing garden at Cois Cuan, 45A Pigeon House Road, Dublin 4, D04 V4F3.	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>Given the location of the proposed development in an inner suburban area where backland residential development of a similar nature has previously been permitted, I do not regard the nature of the proposed development to be exceptional in the context of the existing environment.</p>	<p>No</p> <p>No</p>
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having</p>	<p>Given the location of the proposed development in an inner suburban area where backland residential development of a similar size has previously been permitted, I do not regard the size of the proposed development to be exceptional in the context of the existing environment.</p> <p>I note that concurrent applications for a similar level of backland development are proposed adjacent to the proposed development. Having</p>	<p>No</p>

regard to other existing and/or permitted projects?	examined the cumulative developments proposed, I do not consider there to be any significant cumulative impacts.	No
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>I note the proximity of the River Liffey, which discharges to Dublin Bay, to the proposed development. Given the SuDS measures proposed as part of the proposed development and the existing services in the area, I am satisfied that the proposed development will not significantly impact on the River Liffey.</p>	<p>No</p> <p>No</p>
<p align="center"><b>Conclusion</b></p>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p> <p>Yes</p>	<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p> <p>No</p>	<p><b>There is a real likelihood of significant effects on the environment.</b></p> <p>EIAR required.</p> <p>No</p>

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

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

**DP/ADP:**

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

(only where Schedule 7A information or EIAR required)