



An
Bord
Pleanála

Inspector's Report

ABP-319186-24

Development

Construction of a residential unit over part of the ground floor commercial units and all associated site works; part change of use of 8 sq. m. of commercial to residential at ground floor level to allow access to new first floor residential unit. Located within the original curtilage of Burdett House, 1 Burdett Avenue, Sandycove, (a protected structure).

Location

52 Sandycove Road, Sandycove, Co. Dublin, A96 W3C1

Planning Authority

Dun Laoghaire Rathdown County Council

Planning Authority Reg. Ref.

D23A/0775

Applicant

Mark & Derval Fitzgerald

Type of Application

Planning Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Anthony and Maureen Kerr & Others
John Slyne & Aoife O'Shea

Date of Site Inspection

22nd October 2024

Inspector

Conor Crowther

1.0 Site Location and Description

- 1.1.1. The site is located above an existing single storey subdivided commercial unit, partially occupied by an estate agency, within the original curtilage of a protected structure (Burdett House). The site is bounded to the east by No. 51 Sandycove Road operating as a Children's Clinic, to the south by Sandycove Road and to the west and north by Nos. 1 (Burdett House) and 2 (Virginia) Burdett Avenue (appellants) which are both designated as protected structures (Ref. 1267 and 1260). The stated site area is 0.013ha.
- 1.1.2. The surrounds of the site are characterised by red-bricked commercial buildings and residential buildings of varying types, including detached and semi-detached period homes immediately adjacent to the site. The site is located within an established dual neighbourhood centre and residential area, at a remove from Sandycove village which is located approximately 200m to the west of the site. The site fronts onto and is accessed via Sandycove Road (R119) which acts as the main thoroughfare for the area. There is no amenity space associated with the site due to the 100% site coverage of the existing single storey commercial unit.
- 1.1.3. The site enjoys a south facing vista of Albert Road Lower which slopes towards the site. Scotsman Bay, the Forty Foot bathing area and Sandycove Beach are located further to the north and northeast of the site. Further to the southeast of the site is a Recorded Monument (Wedge Tomb – Megalithic Tomb) whose zone of notification the site does not lie within.

2.0 Proposed Development

- 2.1.1. The proposed development can be described as follows:
 - Construction of a 1-bedroom single storey flat top hipped roof apartment unit (61.5m²), including a private terraced screened amenity area and 4 no. rooflights, over part of the existing ground floor commercial units within the original curtilage of Burdett House (protected structure), and ancillary works.
 - Change of use of 8m² of the ground floor commercial unit to residential for access purposes.

- Alterations to the shopfront signage and internal alterations within the ground floor commercial units.

Information/Documentation:

2.1.2. Along with the standard drawings and information, the application was accompanied by:

- Conservation Report.
- Landowner letter of consent.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Dún Laoghaire-Rathdown County Council (The Planning Authority) issued a GRANT of permission for the above-described proposed development on the 9th February 2024, subject to 11 no. conditions. Conditions of note include:

- Condition 2 requiring the screen around the 1st floor terrace to be permanently opaque or frosted glass, and not to apply film to the surface of clear glass:
 - *‘The opaque screen surrounding the first floor terrace shall be manufactured opaque or frosted glass and shall be permanently maintained as such. The application of film to the surface of clear glass is not acceptable’.*
- Condition 3 preventing the sub-division of the dwelling unit:
 - *‘The entire unit shall be used as a single dwelling unit and shall not be sub-divided in any manner or used as two or more separate habitable units’.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Planning Officer’s Report recommended a GRANT of permission, subject to 11 no. conditions.

3.2.3. Other Technical Reports

3.2.4. The following internal sections issued reports in response to the application:

- Transportation Planning Section – No objection, subject to 3 no. conditions.
- Drainage Section – No objection.
- Conservation Section – No objection.

3.3. Prescribed Bodies

3.3.1. The following prescribed bodies issued reports in response to the application:

- Irish Water/Uisce Éireann – No objection, subject to 3 no. conditions.

3.4. Third Party Observations

3.4.1. A number of 3rd party observations were received in response to the application submitted to the Planning Authority. The 3rd party observations are summarised as follows:

- Overshadowing, overlooking, overdevelopment and overbearing concerns.
- Loss of privacy.
- Out of character.
- Visual impact.
- Impacts on access to daylight and sunlight.
- Proximity to protected structures.
- Undesirable precedent.
- Loss of residential amenity.
- Poor design.
- Insufficient drainage detail.
- Impacts on property values.
- Substandard provision of open space.
- Heritage impacts on surrounding area.

- Cumulative development will serve to exacerbate car parking.
- Not clear if proposed development constitutes 'living above the shop' or not.

4.0 Planning History

Subject Site:

- 4.1.1. D17A/0798 – Permission REFUSED in 2017 for one bedroom first floor residential unit with a floor area of 76m² and an overall height of 7.62m with No.3 roof lights to mansard roof on north elevation and 2 no. roof lights to flat roof, balcony to south elevation with pedestrian access from ground floor with elevational alterations and part change of use of ground floor, 8m² from commercial to residential.

Grounds for refusal include negative impact on the setting of No.1 Burdett Avenue (Burdett House), the residential amenity of No.2 Burdett Avenue and the streetscape along Sandycove Road.

- 4.1.2. D18A/0028 (ABP Ref. 301313-18) – Permission GRANTED by the Board in 2018 for one bedroom first floor residential unit with a floor area of 61.5m² and overall height of 7.62m with 2 no. roof lights to the front and 2 no. roof lights to the rear with pedestrian access from the ground floor with elevational alterations and 9.9m² of open space to the west side at first floor and part change of use of ground floor, 8m² from commercial to residential. This permitted development is very similar in design, scale and layout to the proposed development.

Neighbouring Sites of relevance:

- 4.1.3. D17A/0550 (ABP Ref. PL06D.249145) – Permission GRANTED by the Board in 2018 for alterations, renovations and restoration of a protected structure to include widening access and demolition of rear extension and reconstruction of rear extension at Burdett House, 1 Burdett Avenue, Sandycove to the immediate west of the site.

5.0 Policy Context

5.1. Design Standards for New Apartments – Section 28 Guidelines (2023)

- 5.1.1. The following standards are applicable to the proposed development:

- SPPR 3 identifies the following minimum apartment floor areas of relevance to the proposed development:
 - 1-bedroom apartment (2 persons) – 45m²
- Section 3.35-3.39 *'Private amenity space shall be provided in the form of gardens or patios/terraces for ground floor apartments and balconies at upper levels'... 'A minimum depth of 1.5 metres is required for balconies, in one useable length to meet the minimum floor area requirement'... 'For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, private amenity space requirements may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality'.*
- Appendix 1 identifies the following measurements of relevance for One Bedroom apartments:
 - Minimum floor areas for private amenity space – 5m².

5.2. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024

5.2.1. The guidelines encourage the following approaches of relevance to the subject appeal:

- 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 – *'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 3 - Car Parking – *'In intermediate and peripheral locations, defined in Chapter 3 (Table 3.8) the maximum rate of car parking provision for residential development, where such provision is justified to the satisfaction of the planning authority, shall be 2 no. spaces per dwelling'.*
- SPPR 4 – Cycle Parking & Storage – *'in the case of residential units that do not have ground level open space or have smaller terraces, a general*

minimum standard of 1 cycle storage space per bedroom should be applied. Visitor cycle parking should also be provided’.

- Section 5.3.7 – Daylight – This section proposes that planning authorities weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban development.

5.3. Architectural Heritage Protection Guidelines for Local Authorities

5.3.1. These guidelines were initially issued in 2004 and have since been re-issued in 2011 by the Department of Arts, Heritage & Gaeltacht. The following guidance relates to development within the curtilage of a protected structure:

- Section 13.5 Development within the Curtilage of a Protected Structure – *‘the relationship between the protected structure and the street should not be damaged. New works should not adversely impact on views of the principal elevations of the protected structure’.*
- Section 13.8.3 Other Development Affecting the Setting of a Protected Structure – *‘The extent of the potential impact of proposals will depend on the location of the new works, the character and quality of the protected structure, its designed landscape and its setting’....’Proposals should not have an adverse effect on the special interest of the protected structure’.*

5.4. Dún Laoghaire Rathdown County Development Plan 2022-2028

5.4.1. The following are policies and objectives of relevance to the proposed development from the Dún Laoghaire Rathdown County Development Plan:

- The site is zoned Objective NC *‘To protect, provide for and-or improve mixed-use neighbourhood centre facilities’.*
- The following protections apply to the site:
 - Record of Protected Structures No. 1267 Burdett House (No. 1 Burdett Avenue) to the immediate west of the site.
 - Record of Protected Structures No. 1260 Virginia, Burdett Avenue (No. 2 Burdett Avenue) to the immediate northwest of the site.

- Record of Protected Structures No. 1246 Ballygiheen Lodge, Burdett Avenue (No.3 Burdett Avenue) further to the northwest of the site.
- Recorded Monument No. 023-018 (Wedge Tomb - Megalithic Tomb) to the southeast of the site on Albert Road Lower.
- The Dún Laoghaire Local Area Plan (LAP) covers the entirety of the proposal site but has yet to be prepared by the Planning Authority.
- Chapter 4 - Neighbourhood - People, Homes and Place
 - Policy Objective PHP20: Protection of Existing Residential Amenity – *‘It is a Policy Objective to ensure the residential amenity of existing homes in the Built Up Area is protected where they are adjacent to proposed higher density and greater height infill developments’.*
- Chapter 10 – Environmental Infrastructure & Flood Risk
 - Policy Objective EI4: Water Drainage Systems – *‘It is a Policy Objective to require all development proposals to provide a separate foul and surface water drainage system – where practicable’.*
 - Policy Objective EI6: Sustainable Drainage Systems – *‘It is a Policy Objective to ensure that all development proposals incorporate Sustainable Drainage Systems (SuDS)’.*
 - Policy Objective EI9: Drainage Impact Assessment – *‘It is a Policy Objective to ensure that all new development proposals include a Drainage Impact Assessment that meets the requirements of the Council’s Development Management Thresholds Information Document (see Appendix 3) and the Stormwater Management Policy’.*
- Chapter 11 – Heritage & Conservation
 - Policy Objective HER8: Work to Protected Structures - *‘It is a Policy Objective to’:*
 - *‘Ensure that any development proposals to Protected Structures, their curtilage and setting shall have regard to the ‘Architectural Heritage Protection Guidelines for Planning Authorities’ published by the Department of the Arts, Heritage and the Gaeltacht’.*

- *‘Ensure that any development, modification, alteration, or extension affecting a Protected Structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout, and materials’.*
 - *‘Protect the curtilage of protected structures and to refuse planning permission for inappropriate development within the curtilage and attendant grounds that would adversely impact on the special character of the Protected Structure’.*
- Chapter 12 - Development Management
 - Section 12.3.1.1 ‘Design Criteria’ – *‘The following criteria will be taken into account when assessing applications’:*
 - *‘Levels of privacy and amenity, the relationship of buildings to one another, including consideration of overlooking, sunlight/daylight standards and the appropriate use of screening devices’.*
 - Section 12.3.7.8 ‘Living-Over-The-Shop’.
 - Section 12.4.5.2 Application of Standards – *‘In certain instances, in Zones 1 and 2 the Planning Authority may allow a deviation from the maximum or standard number of car parking spaces specified in Table 12.5 or may consider that no parking spaces are required. Small infill residential schemes (up to 0.25 hectares) or brownfield/refurbishment residential schemes in zones 1 and 2’...’may be likely to fulfil these criteria’.*
 - Table 12.5 Car Parking Zones & Standards –

Land Use		Zone 1 MTC Areas and Blackrock	Zone 2 Near Public Transport
Houses:	Criterion	Maximum	Standard
House 1 bed	unit	1	1
House 2 bed	unit	1	1
House 3 bed or more	unit	1	2
Apartments and Sheltered Housing:			
Apt 1 bed	unit	1	1

- Section 12.4.6 Cycle Parking – *‘Cycle parking should accord with the Council published – ‘Standards for Cycle Parking and Associated Cycling Facilities for New Developments’ (2018) or any subsequent review of these standards. These are minimum cycle parking standards. In car parking Zones 1 and 2 these minimum standards should be exceeded’.*
- Section 12.8.3.3 Private Open Space – Re-states the minimum requirements set out in the Apartment Guidelines.
- Section 12.11.2.3 Development within the Grounds of a Protected Structure – *‘Any proposed development within the curtilage, attendant grounds, or in close proximity to a Protected Structure, has the potential to adversely affect its setting and amenity. The overall guiding principle will be an insistence on high quality in both materials, and design, which both respects and complement the Protected Structure, and its setting’....‘a balance must be struck between allowing compact development, while protecting the Architectural heritage and historic building stock within the County’.... ‘All planning applications for development in proximity to a Protected Structure must be accompanied by a design statement, with supporting illustrative material, demonstrating how it has been developed having regard to the built heritage, topography, and landscape character of the site. An accredited conservation architect or equivalent should be engaged at the outset of the design process to assist in determining the appropriate siting of the development in order to minimise the impact on the Protected Structure’.*

- The Planning Authority's '*Standards for Cycle Parking & associated Cycling Facilities for New Developments*' states the following on the provision of cycle parking:

Table 4.1 Cycle parking for residential development		
Residential Development type	1 short stay (visitor) parking space per: (Minimum of 2 spaces)	1 long stay parking space per: (Minimum of 2 spaces)
Apartments, Flats, Sheltered housing	5 units	1 unit

5.5. Natural Heritage Designations

5.5.1. The closest site of natural heritage interest to the proposed development is the Dalkey Coastal Zone & Killiney Hill proposed Natural Heritage Area (001206) which is approximately 182m to the north and east of the proposed development. Other sites of relevance include:

- Dalkey Islands Special Protection Area (004172) located approximately 1.8km to the southeast of the proposed development.
- Rockabill to Dalkey Island Special Area of Conservation (003000) located approximately 1.9km to the east of the proposed development.
- South Dublin Bay and River Tolka Estuary Special Protection Area (004024) located approximately 2.2km to the northwest of the proposed development.
- South Dublin Bay proposed Natural Heritage Area (000210) located approximately 2.2km to the northwest of the proposed development.
- South Dublin Bay Special Area of Conservation (000210) located approximately 2.6km to the northwest of the proposed development.
- Loughlinstown Woods proposed Natural Heritage Area (001211) located approximately 4.6km to the south of the proposed development.

5.6. EIA Screening

5.6.1. Having regard to the limited nature and scale of the proposed development, the location of the site within a serviced suburban area at a remove from areas of

environmental sensitivity, and the criterion set out in Schedule 7 of the Regulations, 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 Forms 1 & 2 in Appendix 2) and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. 2 no. 3rd party appeals were submitted to the Board by the following appellants opposing the decision of the Planning Authority to GRANT permission:

1. Anthony and Maureen Kerr, Virginia, 2 Burdett Avenue, Sandycove.
 - Edward McGoohan, Ballygiheen Lodge, 3 Burdett Avenue, Sandycove.
2. John Slyne & Aoife O'Shea, 1 Burdett Avenue, Sandycove.

6.1.2. The grounds of appeal are summarised as follows:

Impact on Architectural & Archaeological Heritage:

- Loss of heritage value and property value.
- The Planning Authority did not consider the sensitivity of the area in their determination of this infill proposal.
- Mansard roof design would be visually disruptive due to bulk, scale and external finishes.
- Aspects from many rooms within the neighbouring protected structures would be diminished.
- The character and setting of the neighbouring protected structures would be impacted by the loss of sunlight and daylight.
- The Development Plan policies require the use of high-quality materials and design that respects and compliments protected structures and their settings.
- The design and layout do little to reflect the heritage context.

- Obstruction of views from important rooms of the neighbouring protected structures.
- Inconsistent with the neighbouring protected structures.
- No regard to the character and significance of the setting of neighbouring protected structures and monument 023-018 (Wedge Tomb – Megalithic Tomb).
- Loss of integrity and setting of neighbouring protected structures by reason of scale, massing, density and building height.
- Erosion of the social and historic fabric of the town by reason of the impacts on adjoining protected structures.
- No regard to the Architectural Heritage Protection Guidelines.
- Detracts from the landmark status of the adjacent Burdett House.
- Contrary to the Development Plan objectives relating to architectural character, scale and form.
- The proposed fenestration arrangements illustrate a lack of regard for the built form within the immediate vicinity.
- Design is of poor architectural merit and will have negative visual impacts.

Residential Amenity:

- Overbearing, overshadowing and loss of privacy impacts on neighbouring dwellings due to overdevelopment of the site.
- Insertion of an incongruous over-sized building into a constrained former rear garden area.
- Exposed and intrusive roof terrace - loss of residential amenity to Burdett House due to overlooking.
- Given the proximity of protected structures, the loss of residential amenity is a significant consideration in this instance.
- Adequate separation distances cannot be achieved, as per the Development Plan provisions.

- The proposed development would compromise the visual amenities of existing neighbouring dwellings.
- Likelihood of noise and disturbance from the rooftop terrace to compromise the residential amenities of neighbouring residents.
- The rooftop terrace would be overlooked which would compromise the residential amenities of future residents.
- Loss of daylight/sunlight to neighbouring dwellings at 2 & 3 Burdett Avenue.
- The extent and severity of the loss of daylight/sunlight would constitute a material contravention of the Development Plan.
- The additional height over the existing flat roof (4 metres) and the increased building depth would lead to a loss of daylight/sunlight.
- No shadow study has been submitted with the proposal.
- A privacy screen is necessary due to the proximity of the proposed development to existing dwellings. This would reduce the amount of daylight received by the proposed development, thereby contravening the Daylight Standards for new residential development.

General:

- There have been minimal changes to the width and floor area of the proposed structure in comparison to a previously refused proposed development onsite (Ref. D17A/0798).
- The Planning Officer's report erroneously refers to two separate zonings which has led to an unbalanced judgement and the application of the Development Plan policy relating to Living Over the Shop (Section 12.3.7.9), which is not applicable.
- The proposed development has not been considered on a 'de novo' basis.
- Previous onsite refusal reason relating to impacts on the neighbouring protected structures and the loss of amenity (Ref. D17A/0798) still applicable.
- The fact that the most recent grant of permission onsite has expired demonstrates that there is no urgent need for the proposed development.

- Surface water drainage concerns arise.
- No assessment of the capacity of the existing wastewater treatment system to facilitate additional load.
- No Drainage Impact Assessment provided with the proposal, as required by Policy Objective EI9 of the Development Plan.

6.2. Applicant Response

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

- The proposed development is generally similar to that previously granted (ABP Ref. 301313-18).
- The appellants' reliance on a previous onsite application from 2017 (D17A/0798) is not reflective of the proposed development.
- Previous design advice from the Local Authority suggested that the design of the proposed development be of clear modern origin, whilst being compatible with adjoining buildings.
- The design of the proposed development respects the height, roof profile and building line of the adjoining buildings.
- The neighbouring protected structures are not materially impacted by the proposed development as they would retain their character and visual prominence.
- The existing single storey building onsite is not a protected structure but is located within the curtilage of a protected structure. This was not a planning matter when the existing building was constructed, noting that the existing building pre-dates protected structures legislation enacted in 1999.
- Onsite planning precedent suggests that the Local Authority considers the existing single storey building to be a separate planning unit to Burdett House, the adjoining protected structure whose curtilage within which the proposed development lies.

- The proposed development is located on a part of the roof where it is of furthest remove from the adjoining protected structure.
- The hipped roof of the proposed development is a minimum of 4m from the eastern elevation of the neighbouring protected structure (Burdett House). The private open space terraced area would be no less than 2.5m from the window in the east elevation of Burdett House. A 1.9m high obscured glass screen is proposed, thereby eliminating the possibility for loss of privacy.
- Overlooking of the appellant's ground and basement windows at No.1 Burdett Avenue would not be possible due to the recessed nature of these windows.
- It is not possible for the properties at Nos. 2 and 3 Burdett Avenue to be overlooked by the proposed development due to screening measures and distance.
- Side elevation of Burdett House is tight but faces north and away from the proposed development.
- The proposed structure is of modest scale and cannot be deemed to be overbearing or of excessive height and depth.
- A daylight, sunlight and shadow assessment undertaken by Chris Shackelton Consulting is submitted which shows no significant impact on the properties of the appellants in relation to overshadowing, loss of daylight and sunlight. The assessment also demonstrates adequate target illuminance and sunlight penetration for the proposed development.
- Noise and disturbance issues are unlikely to arise from the use of the outdoor terraced area as it caters for a maximum of 2 no. people.
- Reduction of the size of the outdoor terraced area by 50% is suggested to address noise and disturbance concerns.
- Overlooking from the rooflights not possible due to elevated level and the fact that one is serving the bathroom.
- The Board are legally required to assess the proposed development on a de novo basis. This discounts any concerns relating to the Planning Authority's assessment of the proposed development.

- Potential archaeological impacts raised by the appellant are unfounded as there is no visible surface trace extant of the referenced monument (DU023-018).
- Irish Water/Uisce Éireann and the Planning Authority's Drainage Section raised no objection to the proposed drainage arrangements.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority refers the Board to the Planning Officer's Report as the grounds of appeal do not, in the opinion of the Planning Authority, raise any new matters which would justify a change of attitude to the proposed development.

6.4. Observations

- 6.4.1. None received.

6.5. Further Responses

- 6.5.1. 1 no. further response to the other 3rd party appeal was received from Anthony Kerr & Maureen Keer and Edward McGoohan. This response can be summarised as follows:

- Strongly support the case put forward in the other 3rd party appeal.

- 6.5.2. 2 no. further responses to the applicant's response were received from Anthony and Maureen Kerr & Edward McGoohan and John Slyne and Aoife O'Shea. These responses raised the following additional points:

- The applicant's assessment of overshadowing includes commentary referencing the fact that the 1.9m privacy screen around the private amenity space should have been offset from the boundary with Burdett House.
- The substandard nature of the proposed development is demonstrated by the fact that the proposed private amenity space would not receive any sunlight on the 21st March (Equinox).
- The proposed private amenity space would be too dark and shaded for use by future occupants and the 1.9m privacy screen surrounding it would have an

overshadowing impact on the appellants' properties – this represents a material flaw in the proposal.

- Shadow paths previously referenced remain relevant as they demonstrate a diminished aspect from numerous rooms within nos.2 & 3 Burdett Avenue.
- The Planning Authority Officer did not correctly assess the visual impact of the proposed development on Burdett House.
- The applicant's Daylight, Sunlight and Shadow Assessment indicates degradation in sunlight to the first-floor area marginally above the standard they are testing to.
- Comparisons to UK standards for illuminance are not relevant as these standards have not been adopted in Ireland.
- The previously refused onsite development included a balcony on the southern elevation (Ref. D17A/0798), despite the balcony overlooking a public street.
- The addition of a balcony on the western elevation within 2.5m of a living room window of a protected structure does not constitute sensitivity in site and design and, thus, does not accord with Policy Objective HER8 of the Development Plan.

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, including the reports of the planning authority, 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:

- Principle of Proposed Development
- Impact on Architectural & Archaeological Heritage.
- Residential Amenity.
- Internal Alterations & Change of Use.

- Other Matters.

7.2. Principle of Proposed Development

- 7.2.1. The site is zoned NC '*To protect, provide for and-or improve mixed-use neighbourhood centre facilities*'. The Dún Laoghaire Rathdown Development Plan states that residential development within this zoning would be permitted in principle. In addition, a previous permission has been granted on this site for a development similar to that of the proposed development. As such, I consider the principle of the proposed development to be acceptable on this site given its residential function. Regarding the internal alterations and additional shopfront signage of the existing single storey commercial unit, I consider the principle of this proposed development to be acceptable given the established commercial use at ground floor level.
- 7.2.2. I note the appellants' assertion that the Planning Authority incorrectly relied on the planning history and insufficiently assessed the visual impact of the proposed development. This assessment considers the appeal 'de novo' which requires the Board to consider the appeal afresh and on its own merits. Although the planning history stands, this assessment is confined to the appeal before the Board.

7.3. Impact on Architectural & Archaeological Heritage

Architectural Heritage

- 7.3.1. The existing single storey commercial unit, above which the proposed development is located, has been constructed within what was the rear garden of Burdett House (protected structure) and does not benefit from a protected structure status in itself. Whilst it is noted that the structure is located within the curtilage of a protected structure, subdivision of the curtilage of the protected structure occurred prior to the enactment of protected structure legislation in 1999. The Dalguise case is therefore not considered to be directly relevant in this instance. To the immediate north of the site lies the rear garden of another protected structure, namely, Virginia (No. 2 Burdett Avenue). Further to the north of the site lies the protected structure of Ballygiheen Lodge (No. 3 Burdett Avenue).
- 7.3.2. The Planning Authority's Conservation Section raised no objection to the proposed development and considered it to be acceptable. The Planning Officer considered that the proposed development would not be detrimental to the character of Burdett

House, despite altering the aspect of the first-floor window on its eastern elevation, due to its setback and roof profile.

- 7.3.3. The applicant submitted a Conservation Report prepared by Jones & Kelly Architects which concluded that the proposed development is *'both sensitive and respectful of the protected structure'*, by virtue of its design quality and scale. The appellants contend that the design, layout, bulk, scale, height, massing and external finishes of the proposed development would negatively impact the character and setting of the neighbouring protected structures. In particular, the appellants highlight the impact of the loss of daylight and sunlight on the character and setting of protected structures to the north of the site, namely Virginia (No. 2 Burdett Avenue) and Ballygiheen Lodge (No. 3 Burdett Avenue). The applicant's response highlights the fact that the Planning Authority have advised that a design of clear modern origin would be appropriate and that the proposed development would be respectful of the character and visual prominence of the neighbouring protected structures.
- 7.3.4. Section 13.8.3 of the Architectural Heritage Guidelines requires that new development within the curtilage of protected structures does not adversely impact on views of the principal elevations of protected structures or their special interest. The location of the works and the quality of the protected structure are considered to be central to the assessment of the impact. The Dún Laoghaire Rathdown Development Plan emphasises the need to avoid adverse impacts on the special character of protected structures and encourages sensitive siting, design and the use of high-quality materials.
- 7.3.5. In respect of the location of the proposed development within the original curtilage of Burdett House, the planning history of the site shows that any link between the adjacent protected structure and the site has been severed over time as there is now a separation in scale, use and ownership. Thus, I consider the site of the proposed development to be wholly separate to the adjacent protected structure, however, its location within the original curtilage of the protected structure and its proximity requires further consideration.
- 7.3.6. From analysis of the site itself, the Conservation Report accompanying the application and the register of protected structures, I consider the principal elevations of the adjacent protected structure (Burdett House) to be those facing directly onto

Sandycove Road and Burdett Avenue. This is reflective of the corner site upon which the protected structure is situated. Given that the proposed development does not adversely impact on the views of these principal elevations by way of its separation and setback, I consider that there is no resulting adverse impact on the views of the principal elevations of Burdett House. Moreover, it is my opinion, from analysis of the drawings submitted that an appropriate separation distance (4.2m) would be retained between the proposed development and Burdett House which would serve to retain its visual prominence. This also applies to the protected structures to the north of the proposed development (Virginia – No. 2 Burdett Avenue and Ballygiheen Lodge – No. 3 Burdett Avenue), whose principal elevations face away from the proposed development onto Burdett Avenue.

7.3.7. The height of the proposed development is approximately 4.5m; When considered in tandem with the existing ground floor unit this results in a structure of approximately 7.6m in height. This is below the maximum height of the adjacent Burdett House (9.8m). In addition, the ridgeline and eaves of the proposed development are both located below the corresponding ridgeline and eaves of Burdett House and are aligned with the corresponding ridgeline and eaves of No. 51 Sandycove Road to which the proposed development attaches. In my view, this serves to integrate the proposed development into the existing built environment whilst retaining the prominence and character of Burdett House. I therefore do not consider the height of the proposed development to adversely impact the character and setting of neighbouring protected structures.

7.3.8. The appellants contend that the mansard roof design of the proposed development would result in visual impacts on the neighbouring protected structures. The roof profile of the proposed development consists of a flat top hipped roof. In my opinion, this serves to reflect the end of terrace nature of the proposed development at first floor level, by facilitating a transition between the existing terrace of pitched roof profile and the hipped roof profile of Burdett House. This is evident in Drawing No. PL 03 which shows the proposed front elevation facing onto Sandycove Road. This drawing also outlines that the roof would consist of a zinc cladding finish with 2 no. rooflights on both the front and rear elevation. I consider both the roof profile and design to be acceptable given the need to reflect the modern addition of the proposed development, and I believe this would be achieved without compromising

the character of existing neighbouring buildings due to the simplistic modern design approach.

7.3.9. Regarding the external finishes of the proposed development, the appellants contend that they would negatively impact the character of adjacent protected structures. An off-white brick finish is proposed, and the shopfront signage is proposed with a wooden finish. The similar brick finish of the existing single storey commercial unit and the prevalence of shopfront signage with a wooden finish along Sandycove Road supports the acceptability of the external finishes of the proposed development. It is my opinion that, the external finishes would serve to appropriately assimilate the proposed development into the existing built environment without negatively impacting the architectural integrity of the area.

7.3.10. I note that concerns have been raised by the appellants relating to the impact of the proposed terraced private amenity area on the character and setting of the adjacent protected structure (Burdett House). The appellants cite the lack of sensitive siting and design, as required by Policy Objective HER8 of the Development Plan. The proposed terraced private amenity area is located along the western elevation of the site at first floor level approximately 2.7m from an existing window along the eastern elevation of Burdett House. The location of the proposed terraced private amenity area at such a distance along an elevation of Burdett House, which I do not consider to constitute a principal elevation, results in what I consider to be a sensitively sited and designed development in what is an established dual neighbourhood centre and residential area. Moreover, the private amenity space would be appropriately screened so as not to negatively impact on Burdett House by way of overlooking, for example. In addition, the Planning Authority's Conservation Section did not raise any objection to the proposed development. I therefore do not consider the proposed terraced private amenity area to negatively impact the character and setting of Burdett House. I also do not consider an inbuilt balcony on the southern elevation to be acceptable as this would impact the assimilation of the proposed development into the streetscape by way of an inconsistent eaves line, in comparison with neighbouring properties. I note that this was highlighted as an issue in the Planning Officer's Report on a previously refused onsite application (D17A/0798).

7.3.11. The grounds of appeal state that the proposed development would adversely impact the character and setting of the protected structures to the north (Virginia – No. 2

Burdett Avenue and Ballygiheen Lodge – No. 3 Burdett Avenue) by way of loss of access to light and the resultant impact on the lighting, daylighting and overlooking of their existing open aspects. Both Virginia and Ballygiheen Lodge are described by the appellant's as Regency and Victorian period properties. I consider the architectural characteristics of these structures to represent their principle character and setting. I do not consider that the proposed development would negatively impact the architectural characteristics of these properties due to its relative separation from them and its location in the eastern part of the site which is at most remove from these properties.

- 7.3.12. On the matter of the impact of the proposed development on the aspects of Nos. 2 and 3 Burdett House, I accept the appellants' argument that the proposed development would alter the visual aspect, to some degree, when viewed from the rear gardens and rooms located to the rear of these properties. However, I do not consider the visual aspect to be altered to such an extent that it would impact the character of these protected structures. This is corroborated by the likely oblique visual impact of the proposed development when viewed from the rooms located to the rear of the properties.
- 7.3.13. The applicant has demonstrated no material loss of light to neighbouring properties in their assessment of sunlight, daylight and overshadowing. I am therefore not of the opinion that a loss of access to light would adversely impact the character and setting of these protected structures. This is supported by my conclusions in Section 7.4 of this report relating to daylight and sunlight.
- 7.3.14. Section 12.11.2.3 of the Development Plan requires the submission of a Design Statement for any development next to a protected structure. Although the subject application is not accompanied by a Design Statement as set out above, I am satisfied that the applicant has appropriately demonstrated consideration of the adjacent protected structures in the design of the proposed development.
- 7.3.15. I note that the appellant referenced Policy Objective HER7 of the Development Plan in their appeal. This policy relates to the inclusion of protected structures on the record of protected structures which is a reserved function of the Planning Authority and of no direct relevance to this assessment.

Archaeological Heritage

7.3.16. The appellants contend that the proposed development has not had regard to the character and setting of a recorded monument located to the southeast of the proposed development (023-018 Wedge Tomb – Megalithic Tomb). The nature of the recorded monument is such that it is likely to be located at or below ground level. Given that the proposed development is largely at first floor level and is not within the zone of notification associated with the recorded monument, I consider that the character and setting of this recorded monument would not be likely to be impacted by the proposed development. Considering this, I am of the opinion that Policy Objectives HER1 and HER2 of the Development Plan do not apply to my assessment as the proposed development would not impact or interact with archaeological heritage.

7.4. Residential Amenity

7.4.1. The proposed development is located to the east and south of the appellants' properties, all of which are protected structures. The appellants contend that the proposed development would result in an overbearing visual impact, overlooking, overshadowing and a loss of daylight and sunlight to their properties and rear gardens which would negatively impact their residential amenity.

Daylight & Sunlight:

7.4.2. The applicant submitted a Sunlight, Daylight & Shadow assessment, as part of their response to the appeals, demonstrating no negative impacts in terms of overshadowing, loss of daylight and sunlight for the appellants' properties. The assessment was undertaken in accordance with the BRE Guidelines with results as follows:

- Skylight to neighbouring habitable rooms (100% compliance with 27% and 0.8 requirements for habitable rooms);
- Sunlight on neighbouring windows to living rooms facing within 90 degrees due south (100% compliance with annual probable sunlight hours and winter probable sunlight hours);
- Shadow to neighbouring amenity spaces (100% compliance with the BRE 2 hours of sunlight on the 21st March or 0.8 ratio requirement);

- Target illuminance measuring the proposed development's performance (100% compliance with BS/EN 17037 Annex NA room targets for 50% of the floor area); and
- Sunlight to living rooms within the proposed development (Living room receives >1.5 hours of sunlight on the test day of 21st March).

7.4.3. Having considered the outcomes of this assessment, the appellants' contentions and the BRE Guidelines, I am of the view that no significant overshadowing or loss of daylight and sunlight for the appellants' properties arises, as a result of the proposed development. I am also of the view that the proposed development would receive sufficient daylight and sunlight, in accordance with the BRE Guidelines. I consider the assessment to be sufficiently clear and legible and I do not consider the use of UK standards to be irrelevant, despite the appellant's contentions to the contrary. The UK standards are commonly utilised where no appropriate national standards exist, and this is outlined in Section 5.3.7 of the Compact Settlement Guidelines which refer to the suitability of guides like the UK National Annex. I therefore consider the use of UK standards to be of relevance, as there are no existing national standards in place at the time of writing outlining specific target illuminance for commercial, office and residential rooms.

7.4.4. I note that the appellants highlighted the marginality of the results of the Sunlight, Daylight & Shadow assessment. Despite the marginality of some aspects of the results, I consider the results of the assessment to meet the relevant standards. I note concerns raised about the overshadowing impact of the privacy screen; However, I consider that the applicant's Sunlight, Daylight & Shadow assessment adequately assessed this impact. I therefore do not consider that material overshadowing impacts would arise as a result of the proposed privacy screen.

Overlooking:

7.4.5. Regarding the potential impact of the proposed development on the residential amenity of neighbouring dwellings by way of proximity and overbearing visual impact, I note that a precedent onsite permission determined the separation distance of 4.2m from the first floor of Burdett House to be acceptable. This is below the 16 metres separation distance between opposing windows to the side or rear as advised by SPPR 1 of the Compact Settlement Guidelines. Notwithstanding this,

SPPR 1 allows for the relaxation of this provision where suitable privacy measures have been designed into the scheme. Opaque glazing is proposed for the windows on the western elevation of the proposed development and the private amenity area screen which would both oppose a children's playroom (see Figure 14.0 on page 16 of John Slyne & Aoife O'Shea's appeal). This would serve to reduce any overlooking impact on this window from this elevation. I am therefore satisfied that the proposed development would be compliant with the provisions of the Compact Settlement Guidelines, in respect of overlooking.

7.4.6. I note that concerns have been raised regarding the potential for overlooking of other windows along the rear and side elevations of Burdett House. The remaining windows on the rear elevation are setback from the first-floor building line along the eastern elevation and would not be within direct sight of any of the windows on the western elevation of the proposed development. Accordingly, the proposed development would likely only lead to oblique overlooking of these windows. In any case, the proposed opaque screening of the private amenity area would screen any view from this aspect. The windows on the side elevation of Burdett House face away from the proposed development and are slightly recessed, as indicated by the applicant. The windows on this elevation are also located at varying levels, with some windows at ground and basement level, below the floor level of the proposed development. I therefore do not consider there to be any potential for overlooking of these windows from the proposed development. Overlooking from the proposed rooflights has also been raised as a concern by the appellants. I do not consider it likely that the rooflights would lead to overlooking of neighbouring properties as they would be facing away from them and are located at such a high level that they are unlikely to allow for unimpeded views of neighbouring properties. Thus, the relative angle of sight from the rooflights would, in my opinion, be too oblique to result in overlooking of neighbouring properties.

7.4.7. I therefore consider that the potential would not arise for overlooking of neighbouring dwellings from any aspect of the proposed development as there are no windows proposed along the northern elevation, and those in the western elevation would be appropriately screened. This is supported by the fact that the proposed development retains a separation distance of 4.2m above ground floor level to Burdett House and does not alter the separation distance from the other neighbouring protected

structures to the north. I, therefore, do not consider the proximity of the proposed development to adversely impact the residential amenity of neighbouring dwellings. This aligns with the provisions of Section 12.3.1.1 of the Development Plan relating to design criteria.

Overbearing:

7.4.8. The appellants contend that the proposed development would lead to an overbearing visual impact on neighbouring properties and that the Planning Authority incorrectly assessed the impact of the proposed development on Burdett House in this regard. The applicant infers that the proposed development would not be visually overbearing. Having analysed the proposed development, I do not consider there to be an overbearing visual impact on neighbouring properties due to the following:

- The height of the proposed development sits below that of the appellants' neighbouring properties.
- The flat-top hip roof profile of the proposed development assimilates with the roof profile of the surrounding streetscape which is both pitched and hipped in nature.
- The existing developed nature of the appeal site.
- The separation distances between the proposed development and properties to the west and northwest.

7.4.9. Although the proposed development introduces a structure to an area of the streetscape where no structure previously existed at first floor level, I do not consider that this would lead to an overbearing visual impact. I consider the location and separation of the proposed development away from the appellants' properties to be sufficient to avoid any overbearing impact. This allows for adequate setback distances from the northern and western boundaries of the site, positioning the proposed development away from the appellants' properties and reducing any potential overbearing and overshadowing impact.

7.4.10. In respect of the contended loss of amenity due to a reduction in the open aspect of the curtilages of Nos. 2 and 3 Burdett House, I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. 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.

- 7.4.11. Regarding the residential amenities of future residents of the proposed development, I note that a terraced private amenity area (9.9m²) is proposed along the western elevation. This aligns with Sections 3.35-3.39 and Appendix 1 of the Apartment Guidelines and Section 12.8.3.3 of the Development Plan. This area is proposed to be screened by an opaque privacy screen approximately 1.9m in height, which I consider to be necessary to mitigate against overlooking. Notwithstanding the appellants' contention that the private amenity space would not receive any sunlight during the Equinox, the applicant's Sunlight, Daylight & Shadow assessment indicates that the private amenity area would receive good sunlight over the course of the year. I therefore consider the conclusion of the applicant's assessment on this matter to be acceptable. I do not consider that the BRE requirement of 2 hours of sunlight on the 21st March (Equinox) applies to such an area due to clause 3.3.3 of BR 209 Site layout planning for daylight and sunlight, 2022 Edition. This clause indicates that the assessment of the availability of sunlight does not apply to terraced private amenity areas. Accordingly, I consider that the residential amenities of future residents will not be negatively impacted by access to sunlight.
- 7.4.12. The applicant's assessment also concludes that the private amenity area would be greatly oversized and that it may have been better to offset the privacy screen from the boundary of the amenity area. The applicants also suggest a reduction in the size of the private amenity area by 50% to address noise and nuisance concerns raised by the appellants. Notwithstanding this, I do not consider potential noise and nuisance emanating from the proposed amenity area to be an issue, given the 1-bedroom residential nature of the proposed development. I also consider the proposed private amenity space to be appropriately sized, positioned and screened to allow for sufficient access to sunlight whilst avoiding overlooking of neighbouring properties. Accordingly, I do not consider the terraced private amenity area to be overbearing due to the opaque nature of the screening and its ancillary function relative to a 1-bedroom apartment. I therefore do not consider that its size should be reduced.
- 7.4.13. I note that the appellants' contended that Section 12.3.7.8 (Living over the shop) of the Development Plan was referenced by the applicant in relation to justifying the

inclusion of a balcony along the western elevation of the site. I do not consider that the applicant used the provisions of the Development Plan in this way, nor do I consider this provision to be of relevance to the proposed balcony along the western elevation. In any case, the proposed development does not relate to the conversion of existing retail or commercial space above ground level, as required by Section 12.3.7.8. I therefore agree with the appellants that this Development Plan provision is not of any relevance to the proposed development.

7.4.14. The Planning Authority have suggested the imposition of a condition restricting the subdivision of the proposed apartment unit into 2 or more habitable units. In the event of a grant of planning permission, I consider this to be an appropriate condition which prevents the use of the proposed apartment as 2 no. studio units.

7.5. Internal Alterations & Change of Use

7.5.1. In addition to the proposed 1 bed apartment, internal alterations are proposed at ground floor level including:

- Removal of walls;
- Reconfiguration of commercial unit 2 to include a toilet and store;
- New shopfront signage above commercial unit 2; and
- Construction of a ventilated lobby and access stairs along the eastern elevation of commercial unit 2 to allow for access to the proposed first floor apartment. A change of use from commercial to residential is also proposed for this access area.

The joint pedestrian entrance to commercial unit 1 and 2 would also be segregated to allow for two separate entrances from Sandycove Road to the subdivided units.

7.5.2. As discussed in Section 7.3.9 of this report, I consider the proposed shopfront signage to be acceptable. The proposed internal alterations at ground floor level would result in a re-subdivision of the unit into 2 no. commercial units from the 3-no. existing subdivided commercial units. I consider this to be an acceptable alteration as it would not adversely impact the streetscape and would allow for a more simplistic internal layout at ground floor level. Equally, I consider the proposed access area at ground floor level, the subject of a change of use from commercial to

residential, to be acceptable as it would not adversely impact the streetscape or materially alter the frontage of the existing ground floor unit.

7.6. Other Matters

Car Parking

7.6.1. Regarding car parking, no car parking spaces are provided as part of the proposed development. When assessed against the parking standards set out in the Compact Settlement Guidelines, the proposed development could provide for a maximum of 2 no. car parking spaces (SPPR 3). I consider this on the basis that the proposed development location represents an intermediate location, given the relative proximity of existing high frequency public transport (600m to Sandycove & Glasthule DART Station). When assessed against the parking standards set out in the Development Plan, the proposed development could provide for a maximum of 1 no. car parking spaces (Zone 2). Both the Compact Settlement Guidelines (SPPR 3) and the Development Plan (Section 12.4.5.2) allow for the reduction of car parking provision. In particular, the Development Plan states that a deviation from the parking standards may be considered for sites such as the proposed site (Section 12.4.5.2). The Planning Authority have stated that they consider the lack of car parking provision to be acceptable and there is no reference to a material contravention of the Development Plan in this regard.

7.6.2. I consider the provision of no car parking spaces to be acceptable considering the location of the Sandycove & Glasthule DART station approximately 600m to the west of the site. This aligns with the determination of the Planning Authority on this matter. Having regard to the above, I am of the view that no material contravention of the Development Plan arises. In addition, I did not witness any existing parking issues in the area during my site visit, therefore I am satisfied that the proposed development would not exacerbate car parking issues in the area.

Cycle Parking:

7.6.3. Regarding cycle parking, I note that no cycle parking is provided with the proposed development. The Development Plan requires a minimum of one cycle parking space for developments such as that proposed, and for the minimum standards to be exceeded in accessible areas such as the area of the proposed development (Section 12.4.6). SPPR 4 of the Compact Settlement Guidelines also requires a

minimum of one cycle storage space per bedroom. The Planning Authority suggested that a financial contribution towards the cost of installing an on-street cycle parking space could be imposed. I do not consider this to be an acceptable solution as I am of the view that sufficient space exists within commercial unit 2 of the proposed development for the provision of secure internal cycle parking at ground floor level. In this respect, I consider that the ground floor access area for the proposed 1-bedroom apartment could be expanded to include an area for secure internal cycle parking, without detriment to the viability of the commercial unit. As such, given that I am recommending a grant of planning permission, I consider it necessary to require the provision of 2 no. secure internal cycle parking spaces for written agreement with the Planning Authority.

Drainage

- 7.6.4. The applicant proposes to link the proposed development into the existing drainage network along Sandycove Road and Albert Road Lower, as demonstrated on drawing PL04. Given the proximity of an existing drainage network to the site, and that the nature of development on the site would be relatively minor, I consider the proposed drainage connection to be the most practical solution for the proposed development. This aligns with the provisions of Policy Objective EI4 of the Development Plan which was raised as an issue by the appellants. Furthermore, the Planning Authority's Drainage Section and Irish Water/Uisce Éireann have raised no objection to this approach. The appellants have raised concerns relating to surface water and wastewater drainage and have highlighted the need to submit a Drainage Impact Assessment, as set out in the Development Plan (Policy Objective EI9). I do not consider that the addition of a 1-bedroom apartment would overload the existing drainage network, and this is supported by the acceptance of the competent authorities of this drainage approach.

I note that Policy Objective EI9 of the Development Plan requires a Drainage Impact Assessment to meet the requirements of the Planning Authority. Given that I am recommending a grant of planning permission, I consider it appropriate to address this via condition requiring compliance with the drainage standards of the Planning Authority. Similarly, the appellants noted that Policy Objective EI6 of the Development Plan requires all new development to incorporate Sustainable Drainage Systems (SuDS). I consider that the proposed development does not

include any SuDS measures, however, as I am recommending a grant of planning permission, I consider it appropriate to address this via condition.

Compliance with Residential Standards:

- 7.6.5. Although not raised as an issue by the 3rd party appellants or the Planning Authority, I consider it necessary to assess the compatibility of the proposed development with the basic residential standards. Having analysed the proposed layout and the relevant residential and apartment standards, I am of the opinion that the proposed development would satisfy basic residential standards, including SPPR 3 of the Apartment Guidelines, subject to conditions.

7.7. Conclusion:

- 7.7.1. Having regard to the above, I am of the view that the proposed development would be acceptable within the existing heritage and streetscape context and would not negatively impact the residential amenity of neighbouring dwellings, subject to conditions set out below. Onsite planning precedent gives further weight to this view given the minor differences between the proposed development and the previously granted onsite permission (D18A/0028) (ABP Ref. 301313-18).
- 7.7.2. In summary, I consider the proposed development to be in accordance with the Dún Laoghaire Rathdown County Development Plan, particularly Section 12.11.2.3, Policy Objective HER8 and Policy Objective PHP20, subject to conditions set out below. I also consider the proposed development to be in accordance with the Apartment Guidelines, Compact Settlement Guidelines, and the Architectural Heritage Guidelines, particularly Section 13.5, subject to conditions set out below.

8.0 AA Screening

Appropriate Assessment Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

- 8.1.1. I have considered the proposed development of a single storey apartment unit above a ground floor commercial unit within the curtilage of a protected structure in light of the requirements of S177S and 177U of the Planning and Development Act 2000, as amended.

- 8.1.2. A screening report for Appropriate Assessment was not submitted with this planning appeal case. However, in the Local Authority assessment of the proposed development, Appropriate Assessment Screening was undertaken by Dún Laoghaire Rathdown County Council as part of their planning assessment and a finding of no likely significant effects on a European Site was determined.
- 8.1.3. A detailed description of the proposed development is included in Section 2.1.1 of my report. In summary, the proposed development comprises the construction of a single storey 1 bed apartment unit above part of a ground floor commercial unit within the original curtilage of Burdett House (protected structure), alterations to the shopfront and internal walls of the ground floor commercial unit, change of use of 8m² of the ground floor commercial unit to residential and associated site works.
- 8.1.4. There are no watercourses or other ecological features of note on the site that would connect it directly to European Sites in the wider area. The site is located approximately 160m from the Irish Sea.

European Sites

- 8.1.5. The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA). Four European sites are located within 5km of the potential development site:
- Dalkey Islands Special Protection Area (004172).
 - Rockabill to Dalkey Island Special Area of Conservation (003000).
 - South Dublin Bay and River Tolka Estuary Special Protection Area (004024).
 - South Dublin Bay Special Area of Conservation (000210).
- 8.1.6. Dalkey Islands SPA *'comprises Dalkey Island, Lamb Island and Maiden Rock, the intervening rocks and reefs, and the surrounding sea to a distance of 200 m. Dalkey Island, which is the largest in the group, lies c. 400 m off Sorrento Point on the Co. Dublin mainland from which it is separated by a deep channel. The island is low-lying, the highest point of which (c. 15 m) is marked by a Martello Tower. Soil cover consists mainly of a thin peaty layer, though in a few places there are boulder clay deposits. Vegetation cover is low-growing and consists mainly of grasses. Dense patches of Bracken (*Pteridium aquilinum*) and Hogweed (*Heracleum sphondylium*)*

occur in places. Lamb Island lies to the north of Dalkey Island, and at low tide is connected by a line of rocks. It has a thin soil cover and some vegetation, mainly of grasses, Nettles (*Urtica dioica*) and Hogweed. Further north lies Maiden Rock, a bare angular granite rock up to 5 m high that is devoid of higher plant vegetation'. The site is a Special Protection Area under the EU Birds Directive.

- 8.1.7. Rockabill to Dalkey Island SAC includes 'a range of dynamic inshore and coastal waters in the western Irish Sea. These include sandy and muddy seabed, reefs, sandbanks and islands. This site extends southwards, in a strip approximately 7 km wide and 40 km in length, from Rockabill, running adjacent to Howth Head, and crosses Dublin Bay to Frazer Bank in south Co. Dublin. The site encompasses Dalkey, Muglins and Rockabill islands'. The site is a Special Area of Conservation under the EU Habitats Directive.
- 8.1.8. The South Dublin Bay and River Tolka Estuary SPA comprises a substantial part of Dublin Bay and is located 4.5km east of the site. It includes the intertidal area between the River Liffey and Dún Laoghaire, and the estuary of the River Tolka to the north of the River Liffey, as well as Booterstown Marsh. A portion of the shallow marine waters of the bay is also included. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest.
- 8.1.9. The South Dublin Bay SAC 'lies south of the River Liffey in Co. Dublin, and extends from the South Wall to the west pier at Dun Laoghaire. It is an intertidal site with extensive areas of sand and mudflats. The sediments are predominantly sands but grade to sandy muds near the shore at Merrion Gates. The main channel which drains the area is Cockle Lake'.
- 8.1.10. Given the limited scale of the proposal, I do not consider it necessary to examine the potential for significant effects on any European Sites beyond those of Dalkey Islands, Rockabill to Dalkey Island, South Dublin Bay, and River Tolka Estuary.

European Site	Qualifying Interests (summary)	Distance	Connections
Dalkey Islands Special Protection Area (004172)	3 no. bird species of tern	1.8km	No direct
Rockabill to Dalkey Island Special Area of Conservation (003000)	1170 Reefs 1351 Harbour porpoise <i>Phocoena phocoena</i>	1.9km	No direct

South Dublin Bay and River Tolka Estuary Special Protection Area (004024)	Wintering water birds (13 x species) Wetland and waterbirds	2.2km	No direct
South Dublin Bay Special Area of Conservation (000210)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	2.6km	No direct

Likely impacts of the project (alone or in combination)

- 8.1.11. Due to the brownfield nature of the development site and the presence of a significant buffer area (urban development) between the brownfield site and the Irish Sea, I consider that the proposed development would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors.
- 8.1.12. The proposed development would not have direct impacts on any European site. During site clearance, demolition and construction of the proposed building and site works, possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to surface water.
- 8.1.13. The contained nature of the site (serviced, defined site boundaries, no direct ecological connections, or pathways) and distance from receiving features connected to European Sites makes it highly unlikely that the proposed development could generate impacts of a magnitude that could affect European Sites.
- 8.1.14. Given the scale of the proposed development within a suburban area, I do not consider it likely that any temporary noise or human disturbance that may occur during the construction phase would represent any significant increase on the current baseline.

Likely significant effects on the European sites in view of the conservation objectives

- 8.1.15. The construction or operation of the proposed development will not result in significant impacts that could affect the conservation objectives of the SPA or SACs. Due to distance and lack of meaningful ecological connections there will be no changes in ecological functions as a result of any construction related emissions or

disturbance. There will be no direct or ex-situ effects from disturbance on mobile species including otter during construction or operation of the proposed development.

In combination effects

8.1.16. The proposed development will not result in any effects that could contribute to an additive effect with other developments in the area.

8.1.17. No mitigation measures are required to come to these conclusions.

Overall Conclusion

Screening Determination

8.1.18. Having carried out Screening for Appropriate Assessment of the project in accordance with Section 177U of the Planning and Development Act 2000 (as amended), I conclude that that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on the qualifying interests of European Sites within vicinity of the site namely, Dalkey Islands SPA, Rockabill to Dalkey Island SAC, South Dublin Bay and River Tolka Estuary SPA, South Dublin Bay SAC or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

8.1.19. This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site.
- Distance from and absence of indirect connections to the European sites.
- The determination of the Planning Authority, in their assessment of the proposed development that it would not significantly impact upon a Natura 2000 site.

9.0 Recommendation

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

10.0 Reasons and Considerations

Having regard to nature of the proposed development, its form, scale and design, its separation from adjoining residential properties and protected structures, the constraints of the site and the zoning of the site, 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 Dún Laoghaire-Rathdown County Development Plan 2022-2028, Development Plan Design Standards for New Apartments – Section 28 Guidelines (2023), Architectural Heritage Protection Guidelines for Local Authorities and the Sustainable Residential Development and Compact Settlements Guidelines. The proposed development would not adversely affect the character or setting of neighbouring protected structures (Burdett House, Virginia and Ballygihen Lodge) and would not seriously injure the amenities of the area or of property in the vicinity, and would therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and retained in accordance with the plans and particulars lodged with the application on the 8th day of December 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.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

- (a) Provision of no less than 2 no. secure internal cycle parking spaces within the ground floor area.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of cycle parking and residential amenity.

3. The entire unit shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

Reason: In the interests of residential amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only. The brick colour to be used shall be the same as that used in the existing ground floor unit.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

5. The attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health.

6. Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Éireann (Irish Water) to provide for a service connection to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

7. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and amenity.

8. 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.

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.

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.



Conor Crowther
Planning Inspector

14th January 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319186-24			
Proposed Development Summary	Construction of a residential unit over part of the ground floor commercial units and all associated site works; part change of use of 8 sq. m. of commercial to residential at ground floor level to allow access to new first floor residential unit. Located within the original curtilage of Burdett House, 1 Burdett Avenue, Sandycove, (a protected structure).			
Development Address	52 Sandycove Road, Sandycove, Co. Dublin, A96 W3C1			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes		
		No	No further action required	
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?				
Yes		Class.....	EIA Mandatory EIAR required	
No			Proceed to Q.3	
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]?				
		Threshold	Comment (if relevant)	Conclusion
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
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4. Has Schedule 7A information been submitted?				
No	✓		Preliminary Examination required	
Yes			Screening Determination required	

Inspector: Conor Crowther Date: 14th January 2025

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-319186-24	
Proposed Development Summary	Construction of a residential unit over part of the ground floor commercial units and all associated site works; part change of use of 8 sq. m. of commercial to residential at ground floor level to allow access to new first floor residential unit. Located within the original curtilage of Burdett House, 1 Burdett Avenue, Sandycove, (a protected structure).	
Development Address	52 Sandycove Road, Sandycove, Co. Dublin, A96 W3C1	
<p>The Board carried 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.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</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 a suburban area where 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>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p>	<p>Given the location of the proposed development in a suburban area where development of 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>No</p>

Are there significant cumulative considerations having regard to other existing and/or permitted projects?		No
<p>Location of the Development</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, including any protected structure?</p>		<p>No</p> <p>No</p>
<p align="center">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p> <p>Yes</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A Information required to enable a Screening Determination to be carried out.</p> <p>No</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p> <p>No</p>

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)