



An
Bord
Pleanála

Inspector's Report

ABP-319402-24

Development	Construction of 2 dwellings and all associated site works.
Location	Site at the rear of Nos. 22, 24, 26 Seapark Road, Clontarf, Dublin 3
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	4116/23
Applicant(s)	Seamus & Trasa Smyth
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Seamus & Trasa Smyth
Observer(s)	Joan & Sarah Lavin Conor & Jean McKeating Emmet & Tina Casserly
Date of Site Inspection	11 th October 2024
Inspector	Frank O'Donnell

1.0 Site Location and Description

- 1.1. The subject appeal site is located on backlands to the rear (east) of house no's 18, 20, 22, 24 and 26, Seapark Road, Clontarf east. The site is accessed from Seapark Road via a single vehicle laneway located between house no's 16 and 18 Seapark Road. The laneway is connected to a narrow pedestrian access laneway which connects to Dollymount Grove further to the northeast of the subject site.
- 1.2. The appeal site has a stated area of 0.0356 hectares (356 sqm), has a general rectangular shape and falls in a general north to south direction. The site is surrounded on all sides by established residential development.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - 2 no. two storey/ part single storey, semi-detached dwellings (Units A & B).
 - Unit A is a 3 bedroom/ 6 person dwelling with a stated Gross Floor Area of 119 sqm.
 - Unit B is also a 3 bedroom/ 6 person dwelling and has a stated Gross Floor Area of 126 sqm.
 - Both Units A & B are shown to have an overall height of 6.2 metres and are presented in a single flat roofed block.
- 2.2. The planning application, as lodged on 10th July 2023, in addition to the submitted plans and drawings, was accompanied by the following documentations:
 - Architectural Design Statement;
 - Engineering Planning Report (EPR) and Flood Risk Assessment (FRA);
 - Daylight Analysis and Overshadowing Report.
- 2.3. A Request for **Further Information** was issued by the Local Authority on 6th September 2023, as follows:
 1. *The Transportation Planning Division has serious concerns with regards a number of aspects of the proposed development, in particular having*

regard to the restricted laneway access to the site. The applicant is requested to submit details with regards the following:

- (a) Submit updated site plans & auto-tracking drawings in scale 1:200 of the laneway commencing from the start point of the Seapark Road to the end of the same at the rear of dwelling no. 26, showing laneway widths at 5-metre intervals. The plans should include the location of entrances and utility poles along the laneway, if existing.*
- (b) There are concerns regarding the pedestrian and cyclists access to the proposed development regarding the safety and quality of the laneway. The applicant is requested to outline measures to upgrade the lane and enhance the safety of pedestrians and cyclists where possible.*
- (c) Clarity on refuse collection management at the development should be provided specifically in relation to the location of placement of bins for collection.*
- (d) Section 4.3.1 of Appendix 5 of the 2022-2028 Plan Guidelines outlines the basic dimensions for a car parking space as being 3metres by 5metres. The applicant is requested to submit revised drawings demonstrating compliance with the same.*
- (e) No details of bicycle parking storage have been provided. The applicant is requested to submit details ensuring compliance with Table 1 of Appendix 5 of the 2022-2028 Plan Guidelines.*
- (f) The applicant is requested to submit a preliminary Construction Management Plan to include details on construction related deliveries and traffic management. In addition, a swept path for construction vehicles that could be used for the viability of the construction of the development shall be submitted.*

2. The applicant is advised that the Drainage Planning, Policy and Development Control Section (DPPDC) has indicated that due to the lack of adequate information it is not possible to state that satisfactory

proposals for management of surface water can be provided for this development. In this regard the applicant is requested to consult with the Drainage Division of Dublin City Council prior to the submission of Further Information with regard to their following concerns:

- a) There is an existing public surface water sewer running through the site. A clear minimum distance of three metres shall be maintained between sewers and all structures on site. The exact location of this pipeline must be accurately determined onsite. A proposed surface water layout shall be submitted to indicating proposed clearance/diversion following site investigations for written agreement with DCC DPPDC Section.*
 - b) The applicant is advised that the Drainage Division is not in favour of the proposed underground attenuation tanks. The applicant shall assess whether these can be removed through the provision of alternative storage mechanisms throughout the site. Only where it has been demonstrated that is not feasible to provide alternative attenuation storage measures shall Drainage Division permit the use of underground storage tanks.*
 - c) The development is requested to incorporate a Green Blue roof designed in accordance with the requirements of the Dublin City Council Green & Blue Roof Guidance Document (2021).*
- 3. The applicant is requested to engage with Irish Water through the submission of a Pre Connection Enquiry (PCE) in order to determine the feasibility of connection to the public water/waste water infrastructure. Any subsequent Confirmation of Feasibility (COF) shall be submitted to the planning department as the response to this further information request.*
- Note: Irish Water also advise that it does not have water/wastewater infrastructure within the public road fronting the proposed development. A mains/sewer extension will be required to cater for the proposed development. At this time a mains/sewer extension is not on the current Irish Water Capital Investment plan.*

3. *The necessary obviation treatments for the scheme are noted by the planning authority and it will be also recommended that the front 1st floor balconies are fully treated. It will be recommended that obviation may extend to 1.8m above relevant finished floor level. The applicant is however requested to demonstrate that habitable space within the dwellings will receive adequate access to daylight. Alternative sources of daylight via non-overlooking opes such as high-level windows and/or rooflights could be considered.*

2.4. A Response to the **Request for Further Information** was lodged on 8th February 2024 for and on behalf of the Applicant.

3.0 **Planning Authority Decision**

3.1. **Decision**

3.1.1. The Local Authority issued a decision to REFUSE planning permission on 04th March 2024 for the following reason:

1. *The existing laneway from which the proposed mews dwellings would gain access is currently substandard and contrary to the relevant provisions of the Dublin City Development 2022-2028, including those outlined for access for mews development in Section 15.13.5.4 of the development plan. While scenarios for improvement to/widening of the laneway and possible facilitation of two-way traffic and segregated cycle paths are presented in the planning application, these scenarios do not form part of the planning application proposals and their delivery would require additional works on lands that appear to lie outside the control of the applicant. It is evident that, pending improvement in access along the laneway, the proposed development would result in vehicular movements and an arrangement that would endanger public safety by reason of traffic hazard. The proposed development would set an undesirable precedent for other sites along the laneway, and would, therefore, be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Local Authority Planner** acknowledged that the applicant had attempted to put forward a number of options in order to facilitate the proposed dwellings on this backland site. Having regard to the assessment of the Transportation Planning Division, the Local Authority Planner did not consider that the existing laneway serving the subject site to be adequate to facilitate backland housing and associated vehicular movements including emergency/refuse vehicles. The Planner noted that the applicant submitted an indicative masterplan drawing which outlines that there may be potential for backland/mews housing to the laneway. It was further noted that in this instance, the delivery of backland housing would require substantial cooperation across a number of landowners to facilitate widening of the laneway.
- The Local Authority Planner considered that a grant of permission for the proposed development without any provision for the widening of the laneway would set an undesirable precedent for wider backland housing and therefore recommended that Permission is refused.

3.2.2. Other Technical Reports

- The **Drainage Division** raise no objection to the proposed development subject to 9 no. conditions.
- The **Transportation Planning Division** recommended that permission be REFUSED for the same 1 no. refusal reason issued by the Local Authority on 4th March 2024.

3.3. Prescribed Bodies

- **Uisce Eireann (Irish Water)**, as per the Report dated 04th August 2023, recommend that Further Information be sought, as follows:

‘In order to assess the feasibility of a connection to public water/wastewater infrastructure further information is requested as follows:

- *The applicant is required to engage with Irish Water through the submission of a Pre-Connection Enquiry (PCE) in order to determine the feasibility of connection to the public water/wastewater infrastructure. The Confirmation of Feasibility (COF) must be submitted to the planning department as the response to this further information request.*

Please note that where Irish Water does not have water/wastewater infrastructure within the public road fronting the proposed development a mains/sewer extension will be required to cater for the proposed development. At this time a mains/sewer extension is not on the current Irish Water Capital Investment plan.'

3.4. Third Party Observations

- 11 no. Third Party Observations/ Submissions were received from the following:
 - David & Carol Fleming, Jean & Conor McKeating, Niamh O'Grady & Declan Dolan, Rhona Crowley, Rosemary Walsh, Michael Ryan & Lisa Byrne, Emmet & Tina Casserly, Jeremy & Orla O'Sullivan, Joan & Sarah Lavin, Simon Croghan & Angela Penrose, Sinead Carty & Frank O'Regan.
- The main issues raised in the above Third-Party Observations are covered in the Appeal Observations.

4.0 Planning History

4.1. On the subject site:

- **3983/23:** Deemed INCOMPLETE.

4.2. Adjacent site to the immediate south:

- **1976/06 (Appeal Ref. no. 218563):** Permission is sought for erection of a two-storey, detached four-bedroom house with associated siteworks and boundary walls at rear of 28, Seapark Road, Clontarf, Dublin 3 with access

from Seacourt adjacent to 31 & 42 Seacourt. Permission was GRANTED on 9th January 2007 subject to 10 no. conditions.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan, 2022 to 2028

5.1.1. The Appeal site is zoned Z1 – Sustainable Residential Neighbourhoods in the Dublin City Council Development Plan, 2022 to 2028. The relevant zoning objective is: *‘To protect, provide and improve residential amenities.’* Residential is a use which is Permitted in Principle on lands zoned Z1 – Sustainable Residential Neighbourhoods.

5.1.2. Chapter 4 relates to the Shape and Structure of the City. Relevant Policies from this Chapter include the following:

- SC8: Development of the Inner Suburbs, SC10: Urban Density, SC11: Compact Growth, SC12: Housing Mix, SC13: Green Infrastructure, SC19: High Quality Architecture, SC20: Urban Design & SC21: Architectural Design

5.1.3. Chapter 5 relates to Quality Housing and Sustainable Neighbourhoods. Relevant Policies and Objectives from this Chapter include the following:

Policies:

- QHSN2: National Guidelines, QHSN6: Urban Consolidation, QHSN9: Active Land Management, QHSN10: Urban Density, QHSN11: 15-Minute City.
- QHSN12: Neighbourhood Development, QHSN14: High Quality Living Environment, QHSN16: Accessible Built Environment, QHSN17: Sustainable Neighbourhoods, QHSN22 Adaptable and Flexible Housing, QHSN37: Houses and Apartments.

Objectives:

- QHSNO4: Densification of the Suburbs, QHSNO10: Intergenerational Models of Housing & QHSNO11: Universal Design.

5.1.4. Chapter 8 of the Development Plan relates to Sustainable Movement and Transport.

5.1.5. Chapter 14 of the Plan relates to Land Use Zoning.

5.1.6. Chapter 15 relates to Development Standards. Relevant Sections include the following:

- Section 15.4: Key Design Principles
 - *Section 15.4.1: Healthy Placemaking, Section 15.4.2: Architectural Design Quality, Section 15.4.3: Sustainability and Climate Action, Section 15.4.4: Inclusivity & Accessibility, Section 15.4.5: Safe and Secure Design*
- Section 15.5: Site characteristics and Design Parameters
 - *Section 15.5.2: Infill Development, Section 15.5.5: Density, Section 15.5.6: Plot Ratio and Site Coverage, Section 15.5.7: Materials and Finishes*
- Section 15.6: Green Infrastructure and Landscaping, Section 15.7: Climate Action, Section 15.8: Residential Development
- Section 15.11: House Developments
 - *Section 15.11.1: Floor Areas, Section 15.11.2: Aspect, Daylight / Sunlight and Ventilation, Section 15.11.3: Private Open Space, Section 15.11.4: Separation Distances (Houses).*
- Section 15.13: Other Residential Typologies
 - *Section 15.13.3: Infill /Side Garden Housing Developments*
 - *Section 15.13.4: Backland Housing*
 - *Section 15.13.5: Mews*
 - *Section 15.13.5.4: Access*
- Appendix 1 – Housing Strategy (Annex 1 – Housing Needs Assessment (HNDA), Annex 2 - Dublin City Housing Supply Target Methodology & Annex 3 - Dublin City Sub-City HNDA), Appendix 3 - Achieving Sustainable Compact Growth Policy for Density and Building Height in the City, Appendix 4 – Development Plan Mandatory Requirements, Appendix 5: Transport and Mobility: Technical Requirements, Appendix 7 – Guidelines for Waste Storage Facilities, Appendix 12 – Technical Summary of Dublin City Council

Sustainable Drainage Design & Evaluation Guide (2021), Appendix 13 – Surface Water Management Guidance, Appendix 14 - Statement Demonstrating Compliance with Section 28 Guidelines, Appendix 16 - Sunlight and Daylight, Appendix 18 - Ancillary Residential Accommodation.

5.2. Guidelines

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2023
- Design Manual for Urban Streets (2019)
- Urban Development and Building Heights – Guidelines for Planning Authorities (2018)
- Urban Design Manual - A Best Practice Guide (DoEHLG, 2009)
- Quality Housing for Sustainable Communities - Best Practice Guidelines for delivering Homes, (DoEHLG, 2009)

5.3. Natural Heritage Designations

5.3.1. The site is not located within or adjacent to a Natura 2000 site. The nearest Natura 2000 sites are as follows:

- North Bull Island SPA (Site Code 004006), c. 545 metres to the Southeast;
- North Dublin Bay SAC (Site Code: 000206), c. 545 metres to the Southeast;
- South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), c. 545 metres to the Southeast.

5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area and outside of any protected site or heritage designation, the nature of the receiving environment, the existing pattern of

development in the vicinity, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Grounds of Appeal can be summarised as follows:

- Material Contravention:
 - The Applicant notes as no reference is made to the proposed development materially contravening the Dublin City Council Development Plan, the Board is not restricted by same, having regard to the provisions on Section 37 2) of the Planning and Development Act, 2000.
- Traffic Hazard:
 - Substandard Existing Arrangement: The existing laneway access arrangements are substandard; this is not disputed by the Applicant. Clear and workable solutions, prepared by Traffic Experts, were presented as part of the Application.
 - Additional Works on Third Party Lands: The additional lands referred to in the Transport Division Report appear to be in the Control of the Local Authority. The Report states '*any widening required to any part of the land relies on 3rd party owners who are party to this application.*' No widening as described in the said Transport Division Report is proposed or required. The Applicant requests that the Board undertakes an independent analysis of the information presented at further information stage by the Applicant's Traffic Engineers. This demonstrates a workable access solution. Although the works rely on lands in the ownership of the Local Authority, the Board can Grant permission for same.

- Undesirable Precedent: The concerns of the Transport Division regarding an undesirable precedent for other sites along the laneway are noted by the Applicant. Each application should be assessed on its own individual merits. A grant of permission will result in a significant planning gain for the area as it will address a long-standing backland vacant site. This planning gain should be afforded significant weight in the consideration of this appeal/ application.
- No Car Parking: The Applicant refers to the Local Authority Planners Report wherein the option of conditioning out the proposed car parking was rejected due to the location of the site in Zone 3 (i.e. furthest from public transport services) together with concerns raised by the Transport Division regarding the servicing of the site (bin and fire access) which would not be solved solely by removing car parking.

The site is just outside Zone 2 and is within convenient walking distance of public transport.

The Applicant refers to a scenario at a dwelling in Bull Wall Avenue, North Bull Island, Clontarf, where a Waste Company collected and empties wheel bins from a property over a distance of 400 metres each way. The Applicant submits that a similar arrangement can be utilised with a Waste Company, post decision, i.e. when a dwelling is in place.

- Emergency Vehicle Access: The site was the subject of a previous fire event. In this case the Fire Brigade managed to successfully extinguish the fire in a builders skip by driving down the laneway, connecting to a fire hydrant at the gate pier of No. 16 Seapark Road and then reversing out to Seapark Road.

On a separate occasion, an ambulance successfully accessed the site to attend an emergency.

- Fire Hydrant: The proposed development will include development works to provide new site services. The Applicants are willing to accept a condition in respect of the provision of a Fire Hydrant to the front of the proposed new dwellings to address any concern wherein it is considered the existing Fire Hydrant on Seapark Road is too remote from the site.

- Alternative Fire Access: An alternative means of Fire Tender access is available via the adjacent residential development to the immediate south, at the Moorings. The Applicant considers, owing to the boundary treatment at this location, that it will not be difficult for the Fire Brigade to access the development site. Further easy access at this location can be facilitated by way of condition in the event of a Grant of permission being issued.
- Access to bike racks: The Applicant refers to Drawing/ Diagram attached as Appendix C of the Appeal submission wherein it is stated there is more sufficient space available.
- Recent Precedent: No. 121 Strand Road, Sandymount, Dublin 4:
 - The Applicant refers to a separate permitted development for a single dwelling at the above location, as appeal ref. no. ABP-302839-18 refers. An additional mews dwelling was subsequently permitted under appeal ref. no. ABP-308061-20.
 - Condition no. 4 of ABP-302839-18 states:
 - *'4. There shall be no vehicular access to the site as part of this development.*
 - Reason: In the interest of the proper planning and sustainable development of the area.'*

6.2. Planning Authority Response

- The Local Authority request that the Board uphold their decision to Refuse Permission.
- The Local Authority Planning Department request that if permission is granted that conditions be attached in relation to the following:
 - *A condition requiring the payment of a Section 48 development contribution.*
 - *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 (if applicable).*

- *A name and numbering condition.*

6.3. Observations

6.3.1. 3 no. Observations were received, which may be broadly summarised as follows:

- Traffic Concerns – narrow laneway unsuitable for residential development; will give rise to pedestrian/ vehicle conflicts and precedence of car over other road users; Emergency vehicle and Construction traffic access; Overall Traffic Safety.
- Land Ownership/ Right of Way: The site is not registered; Ownership needs to be clarified; A Right of Way is required to gain access.
- Amenity: Excessive Height and Scale; Separation Distances; Loss of Daylight; Overlooking.
- Other Matters: Structural Stability of rear garden wall; Geophysical Survey of underground River; Haphazard/ Piecemeal Development; Construction Management Plan (CMP); Precedent ABP Decisions.

6.4. Further Responses

- None

7.0 Assessment

7.1. Introduction

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 and national policies and guidance, I consider the main issues in this appeal are as follows:

- Zoning
- Reason for Refusal
- Car Parking

- Residential Amenity
- Other matters
 - *Sufficient Legal Interest*
 - *Precedent Cases*

7.2. Zoning

7.2.1. The subject appeal site and the associated access laneway are zoned Z1 Sustainable Residential Neighbourhoods in the Dublin City Development Plan, 2022 to 2028. The relevant zoning objective for Z1 lands is *‘to protect, provide and improve residential amenities.’* Residential use is permitted in principle on lands zoned Z1, subject to assessment against normal planning considerations. These matters are discussed in turn below.

7.2.2. It should be noted that the subject appeal site, together with the 2 no. residential sites to the immediate north, was zoned Z9 (Amenity/Open Space Lands/Green Network) in the previous Dublin City Development Plan, 2016 to 2022. The adjacent laneway to the west, for the most part, was zoned Z1 Sustainable Residential Neighbourhoods in the same said plan.

7.3. Reason for Refusal

7.3.1. The Local Authority assessment and reason for refusal includes reference to Section 15.13.5.4 (Mews – Access) of the development plan. In my view, notwithstanding the fact that the subject appeal site is not a conventional historic mews site, as described in Section 15.13.5 of the Plan, this section of the plan contains many recommendations which are applicable to the subject proposal owing to the backland nature of the development and the proposed access arrangements via an established laneway. Specific reference is made to Section 15.13.5.4 (Mews Access), the proposed means of vehicular access to the site and associated traffic safety concerns.

7.3.2. I note the Local Authority Planners Assessment and recommendation to refuse permission is informed by a Report from the Roads Streets & Traffic Department Road Planning Division and that this said Report, in terms of Traffic Safety, is primarily concerned with the ability of the laneway to provide emergency access,

access for waste collection and safer access for users such as pedestrians, cyclists and drivers.

- *Access for Emergency Vehicles/ Waste Collection Vehicles/ Construction Traffic*

- 7.3.3. Emergency vehicles include Ambulance and Fire Tender. In response to the request for Further Information, the Applicant has submitted a vehicle tracking analysis drawing for an Ambulance which shows an unimpeded means of ingress and egress to and from the subject appeal site. The Local Authority do not raise any specific concern in this regard.
- 7.3.4. The Applicant has submitted a separate vehicle tracking analysis for a Fire Tender. This indicates that such a vehicle would need to reverse down the lane. The Local Authority consider there is insufficient clearance to exit the front of the vehicle and that alternative proposals to access a separate fire hydrant via a private development to the south, the Moorings, is remote and inaccessible.
- 7.3.5. As part of the Appeal submission, the Applicant refers to a previous, albeit minor, fire event which took place at the site. It is stated that the Fire Brigade managed to get to the site by driving down the laneway, connecting to the existing hydrant at the gate pier to no. 16 Seapark Road and that the fire in a builder's skip was extinguished and that they then reversed out to Seapark Road. The Applicant further refers to the potential to provide a new and separate fire hydrant proximate to the subject site as part of site development works.
- 7.3.6. Having reviewed the Applicants proposals submitted in response to the Request for Further Information and as part of the Appeal submission, I am satisfied that although the site is not fully accessible by a Fire Tender, it is partially accessible for a considerable distance of the laneway (c. 60 metres) and is shown to reach to within c. 14 metres of the subject appeal site. This, in my view, is acceptable.
- 7.3.7. The final arrangements for Fire Tender access and the need or otherwise for a new fire hydrant will, in the event of a Grant of Permission being issued, be the subject of a future and separate Fire Safety Certificate Application under the Building Regulations. The issue of compliance with Building Regulations will be evaluated under a separate legal code and thus need not concern the Board for the purposes of this appeal.

7.3.8. I note the original Engineering Report submitted as part of the planning application includes a vehicle tracking analysis drawing for a Refuse Truck (Drg. Ref. No. 181148-ECE-ZZ-XX-SK-C-003, Rev. PL1). This shows a refuse truck can access c. 60 metres of the laneway to a location within c. 14 metres of the subject appeal site. Item 1 c) of the Request for Further Information related to the issue of waste collection. I note the Applicant's response to this item and the subsequent appraisal by the Local Authority. I am satisfied that the final waste collection arrangements can be agreed with the Local Authority by way of a prior to commencement condition in the event of a Grant of permission being issued.

7.3.9. The control of Construction Traffic can be suitably addressed by way of a Construction Management Plan condition in the event of a Grant of Permission being issued.

- *Conflicts with other road users/ Applicants Proposals*

7.3.10. The existing laneway which serves the subject site is in use as a means of vehicular access to the rear of house no's 18, 20, 22, 24 & 26 Seapark Road and to the subject appeal site itself. This appears to be a long standing and established arrangement. The laneway is also understood to be in frequent use by pedestrians and cyclists and connects at its eastern end to a narrower laneway, which in turn connects to Dollymount Grove further to the east. It is clear therefore, in my view, that the laneway is currently shared and is not solely reserved for the use of pedestrians and cyclists. It is accepted that the proposed development, as presented, will serve to increase traffic movements along the laneway, albeit to a limited extent.

7.3.11. I note the proposed traffic safety enhancements along the laneway as presented by the Applicant in response to point no. 1 b) of the Response to Further Information. Although the concerns of the Local Authority in terms of the increased potential for pedestrian and vehicular conflict are noted, it is considered that the proposed enhancements, which include signage, lighting and delineated road markings (including a delineated 1-metre-wide footpath space along the southern side of the laneway) will serve to manage such potential conflicts to an acceptable level. I am therefore satisfied that the proposed development is acceptable in terms of traffic safety and that in the event of a Grant of permission being issued, a prior to

commencement condition can be attached whereby the final enhanced traffic safety measures along the laneway be agreed with the Local Authority.

- *Undesirable Precedent*

7.3.12. The Local Authority is concerned that the proposed development, if permitted, will set an undesirable precedent for similar proposals into the future. In this regard I note the subject site has a stated site area of 0.0356 hectares (356 sqm) and is presented as a single plot. The site has been zoned Z1 – Sustainable Residential Neighbourhoods under the Dublin City Council Development Plan, 2022 to 2028 having been previously zoned Z9 (Amenity/Open Space Lands/Green Network) in the previous 2016 Development Plan. The site is the single largest undeveloped site at this location. The scale and quantum of additional traffic generated as a result of the proposed development is not considered to be such that it will give rise to persistent and prolonged conflicts with other road users. I do not therefore accept that the proposed development will present a precedent for other sites along this laneway as, in my view, further significant traffic safety improvements to the laneway would be required to facilitate any further significant developments which would seek to utilise the laneway.

7.4. Car Parking

7.4.1. The appeal site is located within Parking Zone 3 as shown on Mapset J (Existing and Future Strategic Transport and Parking Areas) of the Development Plan. As per the car parking standards set out in Appendix 5, Table 2 of the Plan, the maximum car parking standard within Zone 3 is 1 no. car parking space per dwelling. The Applicant is proposing to provide on-site car parking at this rate of 1 car parking space per dwelling.

7.4.2. There is an existing Bus Stop located within 180 metres walking distance to the northwest of the subject appeal site along Seapark Avenue. This bus service (130 Bus) links directly to the City centre and departs every 12 minutes. As per recommendations set out in the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024, the subject appeal site is in

an Intermediate Location.¹ As per SPPR 3 (Car Parking) of the Guidelines, it is stated that *‘(iii) 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.’*

7.4.3. In the Appeal the Applicant submits that the site is located just outside Zone 2. As per Mapset J of the Development Plan, I estimate the site to be a minimum of c. 220 metres walking distance from Zone 2 as opposed to just outside Zone 2 as the Applicant states. I am satisfied, as per recommendations set out in the Guidelines and particularly SPP3 (Car Parking), that the subject site is in an Intermediate location. In such an Intermediate location the guidelines do not support a case to wholly eliminate car parking, which is instead reserved for proposals within the City Centre and City Urban Neighbourhoods, i.e. areas where it is considered the subject appeal site is not located. Therefore, the proposed development, as presented, which proposes a car parking rate of 1 no. space per dwelling is, in my opinion, acceptable in accordance with the development plan standards and recommendations set out in the guidelines.

7.5. Residential Amenity

7.5.1. A number of general residential amenity issues are raised in the Observations and include the height and scale of the proposed dwellings, separation distances, loss of daylight and overlooking. Each of these issues is addressed in turn below.

- *Height & Scale*

7.5.2. The proposed development has a maximum height of 6.5 metres above the proposed ground floor level. The dwellings are each proposed to have a flat roof. Having regard to the established surrounding pattern of residential development and building heights, I am satisfied that the proposed building height and scale of the dwellings is appropriate in this instance and is not overbearing or out of character for the setting.

¹ **Intermediate Location.** Lands within 500-1,000 metres (i.e. 10-12 minute walk) of existing or planned high frequency (i.e. 10 minute peak hour frequency) urban bus service; and **Lands within 500 metres (i.e. 6 minute walk) of a reasonably frequent (minimum 15 minute peak hour frequency) urban bus service.** (See Table 3.8 of Section 3.4.1 of the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024). **[Emphasised].**

7.5.3. A specific concern is raised by one of the observers regarding the future structural stability of the rear party garden wall with the adjacent property at no. 42 Seacourt. I note the said wall is supported by buttresses in 3 no. locations and that the proposed structural works, at their nearest point, are within 4 metres of the said wall. I note the wall is proposed to remain unaltered as part of the proposed development. I would not anticipate that the proposed development would result in any significant increased load bearing on the said wall and I am therefore not concerned as to future structural stability of this said wall.

- *Separation distances/ Overlooking*

7.5.4. The proposed separation distances are shown on the proposed site layout drawing (Drg. No. 099-02-03, Rev. P02) submitted in response to the Request for Further Information. Section 15.11.4 of the Development Plan relates to Separation Distances (Houses). I am satisfied that the proposed development, as presented, is set out and orientated in such a way that the amenities and privacy of adjacent occupiers is suitably protected. I also note recommendations in relation to separation distances as set out in Section 5.3.1 of the Sustainable and Compact Settlement Guidelines for Planning Authorities, 2024 and the associated SPPR1 (Separation Distances). I am satisfied that the proposed development, as presented, complies with the said recommendations. I am further satisfied that the proposed development, as initially presented, and as amended in Response to Further Information, is acceptable in terms of Separation Distances and Overlooking.

- *Loss of Daylight*

7.5.5. The Application is accompanied by a Daylight analysis and Overshadowing Assessment. I note the findings and conclusions of this assessment. I note the following in particular:

- The Assessment indicates that the proposed development, as presented, in terms of potential overshadowing of surrounding private amenity spaces (3 no.) to the north, northeast and east complies with the BRE Guidelines level for Overshadowing.
- The Vertical Sky Component (VSC) for 30 no. window openings in surrounding properties all comply with the BRE guideline level for Vertical Sky Component.

- The applicant has applied the 45-degree rule to the proposed development and this indicates compliance with the BRE Guidelines.
- The Shadow Study demonstrates that all adjacent rear gardens pass for amenity overshadowing.

7.5.6. I am satisfied that that the proposed development, as initially presented and as amended in Response to Further Information, is acceptable in terms of Daylight and Overshadowing.

7.6. Other Matters

- *Land Ownership/ Consent*

7.6.1. In terms of 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. Any further consents which may have to be obtained are essentially a subsequent matter, and area outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties.

- *Precedent Cases*

7.6.2. In support of a case to eliminate car parking from the proposed development, the Applicant refers to 2 no. precedent Appeal cases. I note however that both referenced cases are located within Zone 2 as per Mapset J of the Development Plan and that the subject site is located within Zone 3, as discussed further above in Section 7.4 of this Report. The referenced cases, in my view, are not directly comparable to the subject appeal site and present different site characteristics. I do not agree therefore that the said cases represent relevant precedent cases in this regard.

7.6.3. One of the Observers refers to 1 no. precedent case in support of their case. I have reviewed the cited case and I note the reasons for refusal relate to design and traffic impacts of a proposed Mews development. The referenced case, in my view, is not directly comparable to the subject appeal site and presents significantly different site characteristics. I do not agree therefore that the said case represents a relevant precedent case in this regard.

- *Site Drainage*

7.6.4. One of the Observers refers to an underground river traversing the site and states that a Geophysical Survey would be required to determine the precise location of same. I note point no. 2 of the Request for Further Information relates to the issue of site drainage. I note the Applicant's Response to this point and the assessment of the issue by the Local Authority. I am satisfied that the issue of surface water treatment on the subject site has been suitably addressed.

8.0 Appropriate Assessment

8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

8.1.2. The subject site is located in an urban area. North Bull Island SPA is the closest Natura 2000 site located c. 545 metres to the Southeast of the proposed development.

8.1.3. The proposed development comprises an infill residential development for 2 no. dwellings.

8.1.4. No nature conservation concerns were raised in the planning appeal.

8.1.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- Small scale and nature of the development
- Location-distance from nearest European site and lack of connections
- Taking into account the AA Screening Report and the determination by the Planning Authority

8.1.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

8.1.7. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

9.1. I recommend permission be GRANTED subject to conditions.

10.0 Reasons and Considerations

10.1. Having regard to the zoning objective of the site, which seeks 'to protect, provide and improve residential amenities' as set out in the Dublin City Development Plan, 2022 to 2028, to the established vehicular access to the site and adjacent properties, to the limited scale of the proposed development on a unique infill and backland site to the rear of residential properties and surrounded by existing residential development, it is considered that the proposed development, subject to compliance with the conditions set out below, would be in accordance with the zoning objective for the site, would be acceptable in terms of pedestrian and traffic safety, would not seriously injure the residential amenities of existing properties and would provide a satisfactory level of residential amenity for future occupants. It is considered that the proposed development would be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 8th day of February 2024, 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 interests of clarity.

2. 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.

Reason: In the interest of visual amenity.

3. Site development and building works shall be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenities of property in the vicinity.

4. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

6. Prior to the commencement of development the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) 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. The 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.

8. All traffic safety measures proposed by the Applicant shall be implemented to the satisfaction of the planning authority prior to the commencement of any work on site.

Reason: In the interest of public safety.

9. Final arrangements for the collection of waste from the subject site shall be agreed with the planning authority, in writing, prior to the commencement of any work on site.

Reason: In the interest of public safety and residential amenity.

10. 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 management of construction traffic, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

11. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all

estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. [The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority]. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility [and to ensure the use of locally appropriate placenames for new residential areas].

12. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure satisfactory reinstatement of the site.

13. 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.

Frank O'Donnell
Planning Inspector

25th October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319402-24		
Proposed Development Summary	Construction of 2 dwellings and all associated site works.		
Development Address	Site at the rear of Nos. 22, 24, 26 Seapark Road, Clontarf, Dublin 3.		
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	X
		No	
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			EIA Mandatory EIAR required
No	X		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	X	Class/Threshold.....	
			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-319402-24	
Proposed Development Summary	Construction of 2 dwellings and all associated site works.	
Development Address	Site at the rear of Nos. 22, 24, 26 Seapark Road, Clontarf, Dublin 3.	
<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
Nature of the Development.		
Is the nature of the proposed development exceptional in the context of the existing environment.	The subject proposal is for 2 no. dwellings within an existing settlement and is not exceptional in terms in the context of the existing environment.	No
Will the development result in the production of any significant waste, emissions or pollutants?	The development will not result in the production of any significant waste, emissions or pollutants.	No
Size of the Development		
Is the size of the proposed development exceptional in the context of the existing environment?	The size of the proposed development, on a site measuring 0.0356 hectares, and with a proposed combined gross floor space of 241 sqm is not exceptional in the context of the existing environment.	No
Are there significant cumulative considerations having regard to other existing and / or permitted projects?	There are no significant cumulative considerations having regard to other existing and / or permitted projects.	No

Location of the Development		
Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species?	The proposed development is not located on, in, adjoining, nor does it have any significant impact on an ecologically sensitive site or location, or protected species.	No
Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?	The proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structures.	No
Conclusion		
There is no real likelihood of significant effects on the environment.	There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	There is a real likelihood of significant effects on the environment.
EIA is not required.	Schedule 7A Information required to enable a Screening Determination to be carried out.	EIAR required.

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)