



An  
Bord  
Pleanála

## Inspector's Report ABP320499-24

### Development

The demolition of the existing industrial shed and the construction of a new two-storey detached dwelling.

### Location

No. 9 Fontenoy Street, Dublin 7.

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

WEB1621/24.

### Applicant(s)

Ronan & Carmen Murphy.

### Type of Application

Permission.

### Planning Authority Decision

Grant permission with conditions.

### Type of Appeal

Third Party

### Appellant(s)

(1) Ruairi Samh & Jenny Dimond  
(2) Johnathon Armstrong

### Observer(s)

None.

### Date of Site Inspection

08/10/24.

### Inspector

Anthony Abbott King.



## **1.0 Site Location and Description**

- 1.1. No. 9 Fontenoy Street is a two-bay mid-terrace single-storey period house (at street level) located on the south side of Fontenoy Street. No. 9 has a two-storey rear elevation.
- 1.2. The applicant site comprises the rear historic curtilage of no. 9 Fontenoy Street. The site accommodates a single-storey pitched roof shed exhibiting a gable elevation to a narrow service lane to the immediate rear of the houses on this side of Fontenoy Street.
- 1.3. The access lane is accessed from Saint Laurence Place a cul-de-sac off Fontenoy Street. The service lane to the rear of Fontenoy Street runs parallel to Western Way (R135) to the south. It is elevated above Western Way and shares a boundary wall with Western Way (1.8m high stone wall that forms part of a protected structure - RPS Ref: 8483).
- 1.4. The service lane extends approximately 26m from Saint Laurence Place and is blocked to the east of no. 9 Fontenoy Street.

## **2.0 Proposed Development**

- 2.1. The demolition of the existing industrial shed and the construction of a new two-storey detached dwelling to the rear of no. 9 Fontenoy Street, Dublin 7.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Grant permission with conditions.

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

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

The decision of the CEO of Dublin City Council reflects the recommendation of the planning case officer

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



The Transport Division of Dublin City Council do not object to the proposed development subject to condition.

Drainage Division no objection subject to condition.

## 4.0 Planning History

The following recent planning history is relevant:

- Under register Reference 3003/23 planning permission, subsequent to an additional information request and response, was refused on the 20/09/2023 for the demolition of an existing industrial shed and the construction of a two-storey house to the rear of no. 9 Fontenoy Street for the following reason:
  1. *Having regard to the substandard, restricted and narrow width of the existing laneway, the applicant has failed to demonstrate that the mews building could be safely and conveniently accessed for essential and emergency services. The proposed development would be contrary to the provisions of Section 15.13.5.4 (Mews Access) and Appendix 5 of the current Dublin City Development Plan (2022-2028) and would endanger public safety by reason of traffic hazard. As such, the proposed development would be contrary to the proper planning and sustainable development of the area, and would set an undesirable precedent for similar developments in the area.*

## 5.0 Policy and Context

### 5.1. Development Plan

The following policy objectives *inter alia* of the Dublin City Development Plan 2022-2028 are relevant:

The relevant land-use zoning objective of the Dublin City Development Plan 2022-2028 (Map E) is Z2 (Residential Conservation): *To protect and/or improve the amenities of residential conservation areas.*

The proposed development is a permissible use.



- **Residential conservation area designation**

The rationale for residential conservation area designation is that the overall quality of an area in design and layout terms is such that it requires special care in dealing with development proposals, which would affect structures both protected and non-protected in such areas. The objective is to protect conservation areas from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.

- **Strategic Considerations**

Chapter 2 (Core Strategy) of the Dublin City Development Plan 2022-2028 details the projected population targets for Dublin City, which are vertically aligned with national population projections.

Section 2.2.2 (Population and Housing Targets) states:

*The NPF identifies a minimum target population of 1,408,000 (minimum target population) for Dublin City and Suburbs (including all four Dublin local authority areas) by 2040, representing a 20-25% population growth range from 2016.*

Furthermore, Chapter 2, Section 2.7.4 (Development Management) states:

*Development management will play a leading role in the implementation of the development plan on a site by site basis, ensuring that development applications (planning application, Part 8, Section 5 etc.) are in substantial compliance with policies, objectives, and standards as set out in this development plan.*

- **Urban Consolidation**

Chapter 5 (Quality Housing and Sustainable Neighbourhoods), is relevant including:



Policy QHSN6 (Urban Consolidation) is relevant. The policy promotes and supports residential consolidation and sustainable intensification through the consideration of applications *inter alia* for infill development, backland development, mews development, re-use / adaption of existing building stock, and use of upper floors subject to the provision of good quality accommodation.

Policy QHSN10 (Urban Density) is relevant. The policy promotes residential development at sustainable densities throughout the city in accordance with the Core Strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

- **New House Development**

Chapter 15 (Development Standards), Section 15.5.2 (Infill Development) is relevant.

Infill development refers to lands between or to the rear of existing buildings capable of being redeveloped i.e. gap sites within existing areas of established urban form. Infill sites are an integral part of the city's development due to the historic layout of streets and buildings.

*As such Dublin City Council will require infill development:*

- *To respect and complement the prevailing scale, mass and architectural design in the surrounding townscape.*
- *To demonstrate a positive response to the existing context, including characteristic building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area.*
- *Within terraces or groups of buildings of unified design and significant quality, infill development will positively interpret the existing design and architectural features where these make a positive contribution to the area.*
- *In areas of low quality, varied townscape, infill development will have sufficient independence of form and design to create new compositions and points of interest.*



- *Ensure waste management facilities, servicing and parking are sited and designed sensitively to minimise their visual impact and avoid any adverse impacts in the surrounding neighbourhood.*

Chapter 15, Section 15.11 (House Development) provides standards *inter alia* for floor area, daylight / sunlight, private open space and separation distances between buildings.

Section 5.11.3 (Private Open Space) is relevant and states:

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

- **Mews Development**

Section 15.13.5 (Mews) *inter alia* states:

*Historic mews structures mainly comprised stabling with living quarters were typically two- storey in height and had an integral carriage arch for access. During the 20<sup>th</sup> Century, many older mews structures were adapted for warehouse or garage use. Mews dwellings are an integral part of backland development across the city. Mews dwellings are typically accessed via existing laneways or roadways serving the rear of residential developments.*

- **Car Parking (Mews)**

Section 15.13.5.4 (Access) is relevant and *inter alia* states:

*The parking provision in mews lanes, where provided, may be in off-street garages, forecourts or courtyards, subject to conservation and access criteria. Car free mews developments may be permitted in certain circumstances where there are specific*



*site constraints and where alternative modes of transport are available. Each development will be assessed on a case by case basis.....*

The following national and regional planning policy documents are relevant in the context of sustainable residential land-use and the strategic policy objective to achieve compact growth:

- The National Planning Framework (NPF) (Project Ireland 2040) (Government of Ireland 2018);
- The Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Regional Assembly (EMRA) (June 2019).
- The Department of Housing, Local Government and Heritage 'The Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities', (15 January, 2024).

## **5.2. EIA Screening**

- 5.3. Having regard to the nature and scale of the proposed development for one infill dwelling house in an established urban area, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

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

(1) Ruairi Samh & Jenny Dimond

The grounds of appeal are summarised below:

- The appellants claim that the planning authority did not fully assess a number of matters arising in both the previous application, lodged under Register Reference 3003/23, and the current subject application under appeal (Register Reference WEB1621/24).



- The appeal notes that the planners report states that the previous development (Re. Ref: 3003/23) was refused solely on access issues. The appellant claims the planning case officer only considered the submitted emergency access report in the assessment of the application under appeal.
- The appellants highlight an inaccuracy in the planning case officer description of the existing shed, as “a 2-storey shed”. The existing shed is single storey. The appellants’ reservations relate to the change in building height.
- The appellants in their observations to date note that they have pulling back the ground floor of their home to move it out of the shadow of the existing shed. Solar gain is important all year round motivating the redesign of their home.
- The submitted shadow analysis details the impact of the proposal on the equinox dates (21 March and 21 June) only. The planning shadow analysis assessment, which deemed that the most significant impact would be on the appellants’ rear garden during afternoons (4pm) in midsummer, is not comprehensive.
- The appellants in their observations to the planning authority specifically raised the issue of light received from low winter sun. They included a photograph showing how the sun would be blocked by the heightened eaves. The appellants and the residents of no. 7 Fontenoy Street requested an expanded shadow survey, which was not addressed by the planning authority.
- The proposed development would damage neighbouring property values and would also have a negative impact on their energy costs. They observe that the proposed development includes two-storey blank elevations onto the shared property boundaries without setbacks.
- The proposed development would have an overwhelming impact on the outlook of their main living space and garden. The appellants cite a previous planning application register reference 4901/05, which was refused on grounds including a heightened sense of enclosure.



- The appellants acknowledge that a more modest proposal within the dimensions of the existing shed could be considered by the planning authority, which could accommodate an additional household on site.
- The proposed development if it is to be considered under Section 15.13.4 (Backland Housing) fails to address the following: the impacts on neighbouring properties in terms of daylight, sunlight and visual impacts and; the requirement for a setback of 15m from the rear façade of the existing dwelling with a minimum rear garden dept of 7m.
- The proposed development if it is to be considered under Section 15.13.5 (Mews) fails to address the following: the maintenance of the established height of existing mews roof ridgelines and; the height of a mews building should not negatively impact on the views from the main property.
- It is questioned whether the proposal should be considered a mews development. The houses on Fontenoy Street were originally built with rear gardens without outbuildings such as stables.
- It is observed that any existing developments to the rear of the houses on Fontenoy Street are single storey and are sunken to the grade level of Western Way from where they are accessed.

## (2) Johnathon Armstrong

The grounds of appeal are summarised below:

- The appellant does not object to the principle of development on site. A modest house that would respect both the scale, mass and height of the existing houses on Fontenoy Street and backland development in the area would be appropriate. However, the proposal is excessive in scale, mass and height.
- The reductive assessment of the planners report under register reference 3003/23, which solely considered the proposal based on the previous refusal on traffic grounds. Therefore, the impact on neighbouring properties of the current proposal in terms of an overall assessment of its merits is deficient.



- The appellant requests the planning inspector and the Board to address all the points out lined in the appeal statement.
- The planning authority accessed the application as a mews development. The Dublin City Development Plan 2022-2028 Sections 15.13.4 and Section 15.13.5 addresses backland / mews development respectively, including private open space, separation distance and impacts on existing properties in terms of daylight, sunlight, visual impact.
- The development plan states that a backland development shall be located not less than 15m from the rear façade of the existing dwelling and with a minimum rear garden depth of 7m. The rear garden dept of the proposed house is just over 3m.
- Section 15.11.3 of the development plan requires that 3 bedroom units in the inner city have 5 - 8 sqm. of private open space per bed space. Therefore, the proposed house should provide a minimum of 40 sqm (8 sqm x 5 bedspaces) rather than the 20 sqm proposed. Furthermore, SPPR2 of the Sustainable Residential and Compact Settlement Guidelines require a minimum private open space provision of 40 sqm. for 3 bedroom houses.
- The existing main house at no. 9 Fontenoy Street would have a residual rear garden of 23 sqm. The separation distance between the rear elevation of the main house and the proposal would be a deficient 11.8m. Furthermore, the Sustainable Residential and Compact Settlement Guidelines require a minimum separation distance of 16m.
- It is claimed the planning case officer misunderstand the relationship between development plan standards and those set out in the Sustainable Residential and Compact Settlement Guidelines apparently setting aside all the assessment criteria in the Dublin City Development plan.
- The proposed development is north-east of the rear garden of the appellant's property at no.10 Fontenoy Street. There is an existing shed on the site with a 4.75m wall along the sahred boundary. The new two-storey house it is



claimed will add a further 7m on top of this for a full 11.8m extent of the appellant's rear garden.

- The new structure will appear unacceptably overbearing and visually dominant when viewed from the appellant's rear garden. Furthermore, the shadow analysis submitted with the application demonstrates that direct sunlight into the appellant's garden will be significantly reduced year round especially on summer mornings.
- The appellant concludes that there is some room for the relaxation of development standards. However, the subject development proposal falls so seriously short of these standards that it materially contravenes the Dublin City Development Plan and the criteria contained in the Sustainable Residential and Compact Settlement Guidelines. The development should be refused.

## **6.2. Applicant Response**

The applicant response is prepared by Marston Planning Consultancy on behalf of the applicant and is summarised below:

- The following response relates to the lodged third party appeals. The applicant welcomes and accepts the decision of the planning authority. The applicant claims following review of the third party appeals that there are no grounds that would require a reversal of the planning authority decision to grant planning permission.
- The application is in full compliance with development plan policy including maintaining existing residential amenities. The application comprehensively addresses the reason for refusal under Planning Reference 3003/23.
- There is no basis to support the appellant claim that the proposed development would have a negative impact on the adjoining properties at nos. 8 & 10 Fontenoy Street, in terms of overshadowing and overbearing impacts, to warrant a reversal of the decision of the planning authority.



- There is no basis in the claim that the planning authority incorrectly assessed the planning application. The evidence in the form of the planners report indicates coherent and consistent decision making in mews development.
- The new dwelling has been designed in a manner which ensures that in terms of its form, scale, height and finish visually integrates with the existing character and aesthetic of the area.
- The new house is set back 3.025m from the where the existing shed is located improving the residential and visual amenity of no. 9 Fontenoy Street. The relevant separation distance is 11.89m. The boundary wall between the main house and the new house will be 1.8m.
- The proposed 3.025m setback will also improve the amenity of the garden area to the immediate rear of the neighbouring properties to the east and west.
- A small circular window is located in the north façade of the new house. The high level window has a cill height of 1.8m above the first floor level to uphold the privacy and amenity of the existing house.
- There is a cut-away external light well located to the rear of the house on the west side to provide light to the master bedroom. The lightwell is screened to avoid overlooking of adjoining properties.
- In the matter of car parking, Saint Laurence Place currently serves three houses. It has on-street car parking for between 5 and 6 cars. The survey of car park usage indicates that the maximum number of cars parked at any one time is 3. The applicant evidences that there is spare car parking capacity on Saint Laurence Place to accommodate the development.
- The applicant respectfully submits that the grounds for refusal as they relate to safe and convenient access no longer apply. Emergency access can be provided as per the Traffic Wise report and the Fire report by 'ProFire' that accompany the application.
- The planning authority accept that the proposed development is in full compliance with fire brigade and emergency service vehicle access as



provided for by TGD-B Vol 2 2017 Dwelling Houses and Part B of the Building Regulations.

- In the matter of compact growth, the applicant cites the compatibility of the application with the NPF and urban regeneration and consolidation policies and objectives generally.
- It is claimed that design innovation and more relaxed private open space standards apply following the adoption of the Sustainable Residential and Compact Settlement Guidelines for Planning Authorities (January 2024). The applicant claims that the Guidelines support the delivery of more compact 'own door' housing such as the proposed development.
- In the matter of SPPRs, the purpose and function is in accordance with the provisions of Section 34 of the Act. The planning authority is required to have regard to the policies and objectives of the Guidelines and to apply the specific planning policy requirements (SPPRs) in residential development. Therefore SPPRs supersede development plan policy.
- In the matter of SPPR1, the applicant claims that as there are no directly opposing windows the fact that the proposed house is within 12m of the rear of no. 9 Fontenoy Street is not a valid reason for the Board to overturn the decision of the planning authority.
- In the matter of SPPR3, the Guidelines state that in inner city locations car-parking provision should be minimised, substantially reduced or wholly eliminated.
- In the matter of daylight and sunlight, a shadow analysis indicating the shadow cast currently and following completion of the of the proposed development was submitted as part of the planning application. The shadows cast at the Spring and Autumn equinoxes are key to assessment of shadowing on neighbouring houses. The degree of additional shadowing will not be significant.
- In the matter of overbearing impacts, the applicant observes that the planning authority did not raise overbearing impacts on the adjoining properties as an issue in the previous application. A 2005 application that was refused



permission is cited by one of the appellants. However, the 2005 application was for a new dwelling that had an overall height of 7.52m compared to the height of the current proposal at 6.05m. The applicant claims the appellants have not recognised the significant drop in height of the proposed new house.

- In the matter of private open space provision, the applicant states that there are no grounds to the claim the open space provision is insufficient. The proposed patio space, comprising 20 sqm., satisfies Section 15.11.3 of the Dublin City Development Plan 2022-2028 for 4 bed spaces in the inner city.
- The applicant notes that SPPR2 requires a minimum open space provision of 40 sqm. for a 3-bedroom house. However, the applicant advocates a relaxation of the standard as provided for small infill sites.
- The applicant notes that both appellants confirm that they accept the principle of mews type house on the site in principle. Therefore, it is the design details as opposed to the principle that the Board should consider in assessing the subject appeals.

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

The planning authority request that the Bord uphold their decision. The planning authority request that the permission be conditional on section 48 & 49 (Luas) development contributions and a naming and numbering condition.

### **6.4. Observations**

None.

### **6.5. Further Responses**

Johnathon Armstrong appellant (2) supports the observations of Ruairi Samh and Jenny Dimond appellants (1) after reading their appeal statement considering that both parties are immediate neighbours of no. 9 Fontenoy Street and will be the most severely impacted residents.



## **7.0 Assessment**

- 7.1. The following assessment covers the points made in the appeal submissions and encapsulates my overall consideration of the application. It is noted there are no new substantive matters for consideration.
- 7.2. The applicant site presently accommodates a pre-1963 pitched-roof light-industrial shed with roof fenestration. The site area is given as 79.6 sqm. The pre-existing structure has an north-south axis. The shed to apex roof height is 5250mm and to eaves height 2650mm. The footprint of the shed is given as 72 sqm. (floor area of buildings to be demolished on site).
- 7.3. It is noted that the dimensions on the submitted drawings approximate to a footprint of 79 sqm. (11.5m x 6.9m), which is equivalent to the given site area. The pre-existing structure exhibits a gable elevation to the service lane to the south of the houses on Fontenoy Street and has no elevation fenestration. The shed has a large double door opening to the service lane. The service lane width is given as an approximate 2.8m.
- 7.4. The applicant proposes to demolish the existing shed and to construct a two-storey infill house. The footprint of the house at ground floor level would be an approximate 59 sqm (8525mm x 6900mm). A 20 sqm patio would be located to the north of the infill house between the infill house and the rear garden of no. 9 Fontenoy Street. The house would have a shallow pitched roof with a maximum apex height of 6.1m. The eaves height along the property boundary would be a maximum 4.8m. The depth of the house from the service lane into the interior of the site would be an approximate 8.7m.
- 7.5. The infill house would accommodate an open plan living area at ground floor level with ancillary utility and WC. There would be 3 bedrooms with a bathroom at first floor level. The floor area is given as 93 sqm. The bedrooms would comprise two single bedrooms and a double bedroom. The proposed infill dwelling house would provide a reasonable level of accommodation on site.
- 7.6. The light to the master bedroom is provided principally by a large side window opening contained within an enclosed first-floor lightwell. The bathroom also has fenestration into the lightwell. The light well is screened at first floor level by a solid



screen to the west and north to a height of 1800mm above first floor roof level to prevent overlooking of adjoining properties.

- 7.7. The first floor footprint is marginally smaller than the ground floor footprint given that the first floor accommodates the subject approximate 4 sqm. lightwell (2275mm x 1.8mm). The lightwell would modulate the rear north facade of the infill house at first floor level. It would reduce the dept of the west elevation of the house, which would have a first-floor dept of approximately 6.1m. Thus reducing the two-storey massing along the shared property boundary to the west with no.10 Fontenoy Street.
- 7.8. The relevant planning matters arising, including the grounds of appeal, are interrogated in my assessment under the following main headings below:
- Zoning / principle of development
  - Compact growth / urban consolidation
  - The Sustainable Residential Development and Compact Settlement Guidelines (January 2024)
  - Infill development
  - Separation distance
  - Open space
  - Impact on residential amenity of adjoining properties
  - Waste management
  - Car parking
  - Mews development

#### *Zoning*

- 7.9. The site is zoned Z2 (Residential Conservation) in the Dublin City Development Plan 2022-2028. Residential development is acceptable in principle.
- 7.10. The development site comprise the historic rear garden of a mid-terrace dwellinghouse on Fontenoy Street within an established urban area where piped services are available. There is an existing light industrial unit on site, which the applicant proposes to demolish in order to facilitate brownfield redevelopment.



- 7.11. The development site is centrally located within the Dublin urban city core. The development site is within 1km of the Spire on O'Connell Street. I consider the location appropriate for infill housing subject to satisfying the requirements for development within a residential conservation zone.

*Compact growth*

- 7.12. The National Planning Framework (NPF 2018) and the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland Region (EMRA) (2019) encourage and support the densification of existing urban areas and, as such, promotes the use of performance based criteria in the assessment of developments to achieve well designed and high quality outcomes.
- 7.13. The strategic objective of compact development is supported in principle by densification of urban sites in particular lands accessible by walking, cycling and public transport. The subject development site is located within the inner urban core 450m from Broadstone Luas Stop. The site is highly accessible to city centre services and employment, active travel infrastructure and major public transport corridors.
- 7.14. Urban consolidation and compact growth housing objectives based on target populations are incorporated into the Dublin City Development Plan 2022-2028, which *inter alia* through development management is required to provide sustainable new homes targeting a 20-25% population growth range (for the four number Dublin local authorities) from 2016 to 2040.
- 7.15. The policy framework provided by the Dublin City Development Plan 2022-2028 supports the infill development of brownfield, vacant and underutilised sites. For example Policy QHSN6 (Urban Consolidation) promotes and supports residential consolidation and sustainable intensification through the consideration of applications *inter alia* for infill development, backland development, mews development, re-use / adaption of the existing building stock and, the use of upper floors and subject to the provision of good quality accommodation.

*The Sustainable Residential Development and Compact Settlement Guidelines*

- 7.16. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (January 2024) set national planning policy and guidance in



relation to the planning and development *inter alia* for urban settlements with a focus on sustainable residential development and the creation of compact settlement.

- 7.17. The Guidelines expand on higher-level policies of the National Planning Framework, setting policy and guidance that include development standards for housing. Chapter 5 (Development Standards for Housing) provides *inter alia* guidance for separation distance, private open space, public open space, car parking, bicycle parking and storage and daylight standards. The following assessment is informed by the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities.

*Infill development*

- 7.18. Section 15.5.2 (Infill Development) of the Dublin City Development Plan 2022-2028 provides criteria to guide infill development on potential development sites between or to the rear of existing buildings (i.e. gap sites) within existing established urban areas. I consider that the proposed development site would satisfy the definition of an infill development site. The relevant infill development criteria are interrogated below.

*Separation distance*

- 7.19. SPPR1 of the Guidelines requires that statutory development plans should not include an objective in respect of separation distances that exceeds 16 metres between opposing windows serving habitable rooms *inter alia* at the rear or side of houses. However, it requires that when considering a planning application a separation distance of at least 16m between opposing windows serving habitable rooms above ground floor level at the rear and side of houses should be maintained. In the instance of the proposed development the site layout would provide a separation distance of approximately 12m between the rear elevation of the main house and the north facade of the infill house.
- 7.20. SPPR1 *inter alia* provides that separation distances below 16m may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity space.
- 7.21. The applicant claims that a 16m separation distance is not applicable to the development given that the SPPR1 standard relates to opposing window distance at first floor level. The applicant claims there are no opposing windows. However, the



north façade of the infill house at first-floor level has a high level circular window opening or oculus. The applicant clarifies that the subject window cill is 1.8m off the finished first floor level to prevent overlooking of neighbouring properties.

7.22. I acknowledge that the circular window opening is not the principle fenestration to the master bedroom, which is lit by a large side window opening elevating into the first floor lightwell. However, it is considered that the proposed oculus would result in a perception of overlooking from the infill house toward the rear amenity space of the houses on the south side of Fontenoy Street, including the opposing windows of no. 9 Fontenoy Street. The omission of the high level window in the north facade can be dealt with by way of condition.

7.23. I conclude in the matter of separation distance that the 16m standard is not applicable in the instance of the proposed development given that there would be no opposing first floor windows serving habitable rooms subject to condition (between the main house at no. 9 Fontenoy Street and the north façade of the proposed infill house). Furthermore, I note that the existing structure on site is located 3025mm closer to the main rear south elevation and return of no. 9 Fontenoy Street than the proposed infill house.

#### *Open space*

7.24. The open space provision would be located to the rear of the proposed infill house between the main house at no. 9 Fontenoy Street and the ground floor north elevation of the new house. The amenity patio area would measure an approximate 20 sqm. (6900 x 3025mm). I note the northern aspect, which is not optimum.

7.25. SPPR2 of the Sustainable Residential Development and Compact Settlement Guidelines (January 2024) requires a minimum open space provision of 40 sqm. for a 3-bedroom house. However, the standard can be relaxed on a case by case basis *inter alia* on smaller urban infill sites (e.g. sites of up to 0.25 hectares). The subject site is less than 0.01 hectares (approximately 80 sqm.).

7.26. I consider given the central location of the development site within the Dublin urban core, the brownfield nature of the site and its infill typology that a relaxation of the open space standard is applicable in the instance of the proposed house.

7.27. Section 15.11.3 (Open Space) of the Dublin City Development Plan 2022-2028 requires a standard of 5– 8 sq. m. of private open space per bedspace for a house



within the inner city. The proposed house would have 4 bed spaces comprising two single bedrooms and one double bedroom. A minimum requirement of 20m. The proposed development provides a patio amenity area of 20 sqm, which would satisfy the minimum development plan standard.

*Potential impact on adjoining residential amenity*

7.28. The appellants have claimed that the proposed development will have a significant negative impact on the residential amenities of the adjoining properties at no.10 Fontenoy Street (to the west) and no. 8 Fontenoy street (to the east). Furthermore, the appellants claim that the proposed development will significantly impact the residential amenity of the main house at no. 9 Fontenoy Street in terms of amenity space.

7.29. It is considered that the height and massing of the infill house would be greater than the existing shed to be demolished. The existing shed has an eaves height of 2650mm onto the shared property boundaries to the west and east. The proposed infill house would have an eaves height of 4750mm onto the west shared property boundary and an eaves height of 4800mm onto the east shared property boundary. The maximum height to roof apex of the infill house would be 6100mm. The existing pitched roof of the shed to be demolished is 5250mm measured to apex.

7.30. The applicant has provided elevation drawings as part of the planning application illustrating the existing physicality of the shed and the proposed physicality of the two-storey house within streetscape context (Drawing nos. GA05 & GA06 dated 23/03/24). I consider that the proposed two-storey house would respect and complement the scale, massing and architectural design in the surrounding townscape in terms of building form and material finish demonstrating a positive response to context within this residential conservation area.

*No. 9 Fontenoy Street*

7.31. In the matter of the potential impact of the proposal on no. 9 Fontenoy Street, the appellant notes that the residual rear garden will represent a deficient open space provision of 23 sqm. The applicant clarifies that the existing amenity area is 25m. I note that the rear garden of no. 9 Fontenoy Street is aligned along a north-south axis with the amenity area having an optimum south aspect.



- 7.32. It is considered that the rear amenity space to the rear of no. 9 Fontenoy Street would not be impacted by the proposed development in terms of spatial area. The applicant site presently accommodates the footprint of the existing light industrial shed on site. The applicant proposes to demolish the shed to accommodate the proposed infill house and patio area.
- 7.33. I note that the north rear gable elevation of the existing shed is presently aligned with the northern site boundary. The applicant proposes to recess the infill house moving the built footprint to the south to provide a patio area to the rear of the infill house between the new house and no. 9 Fontenoy Street that would provide 20 sqm. of open space.
- 7.34. The north rear façade of the infill house, which is modulated at first-floor level to create a light well along the western property boundary, would be recessed by 3025mm at ground floor level for the full width of the site. The north façade would be recessed by 3025mm for approximately 75% of the width of the first floor elevation and additionally recessed 2275mm for approximately 25% of the residual width of the elevation. The maximum first-floor setback from the northern boundary would be 6m.
- 7.35. It is considered that the set back of the built envelope by 3025mm would increase the separation distance between the rear elevation of the main house at no. 9 Fontenoy Street and the brownfield site to the rear of the historic plot. Furthermore, it is considered that the proposed 3025mm set back from the proposed shared property boundary would in part mitigate the impact of the increased height and massing of the new infill house.
- 7.36. The applicant proposes a 1.8 boundary wall between the proposed patio area of the infill house and the existing amenity area to the rear of no. 9 Fontenoy Street, which comprises an oblong amenity area with a north-south axis located to the west of a later return extension of the main dwelling house. I note that the shadow analysis comparing before and after impacts on the equinoxes (21 March & 21 June) does not highlight a deterioration in sunlight penetration to the rear of no. 9 Fontenoy Street.
- 7.37. On balance I consider that the proposed development would not adversely impact the existing residential amenities of no. 9 Fontenoy Street. However, I acknowledge



that a habitable dwelling located to the south of the existing established building line on Fontenoy Street would introduce an active residential use, which may result in noise and nuisance considerations.

- 7.38. The introduction of an active use onto the service lane providing passive surveillance to the rear of Fontenoy Street must be balanced with the management of this intensification of use. I note a new street light would be provided on the front façade of the infill house similar to the existing projecting street lamp located on the front elevation of no. 3 Saint Laurence Place.

*Nos. 8 and 10 Fontenoy Street*

- 7.39. The appellants claim that the new structure will appear unacceptably overbearing and visually dominant when viewed from the rear of their properties. The shadow analysis submitted with the application demonstrates that there will be overshadowing of the rear gardens of the appellant properties. Furthermore, it is claimed by the resident of no. 8 Fontenoy Street that the potential for overshadowing of the rear elevation of no. 8 Fontenoy Street in winter is not assessed given that the shadow analysis is deficient in terms of comprehensive observation dates.

- 7.40. It is considered that the physical environment to the rear of the houses at nos. 8, 9 & 10 Fontenoy Street will be physically changed by the demolition of the existing shed and the activation of the plot at the rear of no. 9 Fontenoy Street. It is acknowledged that the construction of a two-storey infill house would increase overall height and massing along the shared property boundary with no. 10 Fontenoy Street (west boundary) and no. 8 Fontenoy Street (east boundary), which would represent discernible physical change.

*Overbearing Impacts*

- 7.41. The footprint of the infill house would be located 3025mm further south of the existing built footprint. However, the increase in the eaves height located along the shared property boundaries with no. 10 Fontenoy Street (west) and no. 8 Fontenoy Street (east) is significant (from 2600mm to 4750mm). The massing of the infill house would be greater than the existing shed to be demolished.
- 7.42. I note that the applicant proposes concealed gutters along the shared property boundaries. Therefore, no issue of overhang will arise.



- 7.43. The new building footprint measured from the north rear facade to the south service lane façade would have a maximum building dept of 8675mm in comparison to an existing building dept of 11.5m (the shed is 11.4m in dept along the west boundary and 11.8m in dept along the east boundary). The building dept at first-floor level along the western boundary with no.10 Fontenoy Street would be 6.1m given the incorporation of the first floor lightwell to the rear of the house.
- 7.44. Therefore, the infill house is set back 6m from the northern site boundary with no. 9 Fontenoy Street along the western shared property boundary with no. 10 Fontenoy Street. The extent of the set-back is facilitated by the incorporation of the lightwell at first-floor level, which would exhibit a 1.8m solid screen above the shared boundary wall. The lightwell is not accessible at first-floor level. The planning authority imposed a condition regulating the use of the first floor area prohibiting its use as an accessible open space. I concur with the planning authority. This can be dealt with by way of condition.
- 7.45. There is a low oblong structure located at the bottom of the rear garden of no.10 Fontenoy Street positioned against the shared property boundary. The structure enjoys a pedestrian access to the service lane. The proposed blank two-storey west elevation of the infill house, extending north 6.1m from the service lane into the interior of the site, would notionally rise above the oblong structure located in the garden of no.10 Fontenoy Street.
- 7.46. There is a pre-existing light industrial shed presently elevating onto the shared property boundary with no.10 Fontenoy Street for the full extent of the applicant site. I do not consider that overbearing impacts would be excessive given the mitigation provided by the proposed set back of the first-floor footprint by 6m along the shared property boundary and the presence of an existing low oblong structure abutting the boundary wall located in the garden at the rear of no.10 Fontenoy Street.
- 7.47. In the matter of overbearing impacts on no. 8 Fontenoy Street, the eastern elevation of the infill house would extend 8675mm at an eaves height of 4800mm along the shared property boundary. The existing shed extends 11800mm along the east boundary at an eaves height of 2650mm. I consider that the proposed development would have an overbearing impact on the rear garden of no. 8 Fontenoy Street. However, I do not consider on balance that the proposed development would



significantly adversely impact the residential amenities of no. 8 Fontenoy Street given the extent and aspect of the rear garden amenity area.

#### *Overshadowing Impacts*

- 7.48. A shadow analysis was submitted as part of the planning application indicating the shadow cast currently by the existing shed and predicated the level of shadowing following completion of the proposed infill house. The shadows cast at the Spring and Autumn equinoxes are assessed. There will be additional shadowing (21 March & 21 June) of the garden of nos.10 Fontenoy Street (between 10am-12pm) and of no.8 Fontenoy Street (between 2pm – 4pm) resulting from the increased massing to the rear plot of no. 9 Fontenoy Street.
- 7.49. It is acknowledged that the proposed development will increase overshadowing of the neighbouring properties on the spring and autumn equinoxes. However, the overshadowing impacts require context. The building plots on Fontenoy Street are aligned along a north-south axis. The houses on the south side of the street enjoy south facing rear gardens.
- 7.50. I do not consider that the additional overshadowing that would result from the replacement of the existing shed with the proposed two-storey infill house would have a significant adverse impact on the enjoyment of the amenity spaces of the subject houses in terms of sunlight given the documented predicted impacts and the south aspect of their rear gardens.

#### *Waste Management*

- 7.51. The applicant has not clarified domestic waste storage arrangements on site. This can be dealt with by way of condition.

#### *Car parking and emergency access*

- 7.52. The Transport Planning Division of the planning authority acknowledges that the existing service laneway width is substandard. The laneway would require widening to accommodate a 4.8m carriageway, which is not feasible given the existing spatial constraints of the subject service lane.
- 7.53. The Transport Division of the planning authority supports the principle of car free provision as provided for in Section 15.13.5.4 (Mews Access) of the Dublin City



Development Plan 2022-2028 given the central location of the proposal. I would concur with the planning authority.

7.54. The applicant has demonstrated as documented in a transport report (TR), prepared by Trafficwise Ltd., ambulance, fire tender and refuse collection access *inter alia* by reason of the underlisted car parking capacity along St. Laurence Place.

7.55. *Mews development*

The appellants note that the planning authority assessed the proposal as a mews development. It is claimed that the relevant mews development standards are not satisfied. Section 15.13.5 (Mews) of the development plan primarily relates to the conversion during the twentieth-century of many older mews structures (which were originally stables or other ancillary structures in lane way locations) adapted for warehouse or garage use.

The planning authority seeks to maintain the relationship between the historic main house and its mews structure. Dublin City Council recognises the increasing rarity of stone / brick coach houses and the need to retain and conserve all of the surviving examples. Proposals to demolish such buildings will generally not be accepted.

It is considered that the existing shed structure on site is a purpose-built light industrial building constructed in the rear garden of no. 9 Fontenoy Street before 1963, as such architectural protection issues do not arise.

*Conclusion*

7.56. I conclude that the proposed development of an infill two-storey 3-bedroom house on a brownfield site, centrally located within the city core, would provide a reasonable level of accommodation on site, would not have a significant adverse impact on the existing amenities of adjoining residential properties and would in physicality respect and complement the scale, mass and architectural design in the surrounding townscape in terms of building form and material finish demonstrating a positive response to context within this residential conservation area.

7.57. **Appropriate Assessment Screening**

The proposed development comprises an infill dwelling house in an established suburban area.



Having regard to the nature and scale of the proposed development it is possible to screen out the requirement for the submission of an NIS..

## 8.0 Recommendation

8.1. I recommend a grant of planning permission subject to condition.

## 9.0 Reasons and Considerations

Having regard to the grounds of appeal, the response of the applicant, the residential conservation zoning objective and the policy framework provided by the Dublin City Development Plan 202-2028, it is considered that the proposed 3-bedroom infill house subject to condition, would provide a reasonable level of accommodation on site, would not have a significant adverse impact on existing residential amenities, including the amenity of the main dwelling house at no.9 Fontenoy Street and the adjoining houses at nos. 8 & 10 Fontenoy Street, would be consistent with the urban consolidation policies and objectives of the Dublin City Development Plan 2022-2028, including the requirements of Section 15.5.2 (infill development) of the Dublin City Development Plan 2022-2028, would be consistent with the Sustainable Residential Development and Compact Growth Guidelines for Planning Authorities (15 January, 2024) and, as such, would be consistent with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.
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	Reason: In the interest of clarity.
2.	<p>Prior to the commencement of development the developer is requested to submit for the written agreement of the Planning Authority revised drawings providing for the following modifications:</p> <p>(i) The high level window opening at first floor level on the north rear elevation of the proposed house shall be omitted and a rendered finish substituted.</p> <p>(ii) Details of the location and design of the external domestic waste storage area.</p> <p><b>Reason:</b> In the interest of orderly development and residential amenity.</p>
3.	<p>The first floor flat roof area (lightwell) shall not be used or accessed as private open space.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
4.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
5.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p><b>Reason:</b> In the interest of public health.</p>
6.	<p>Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
7.	<p>The developer shall adhere to the recommendation of the Transportation Planning Division of Dublin City Council, as contained in their technical report dated 27/06/2024.</p> <p>Reason: In the interests of orderly development, pedestrian and traffic safety.</p>



8.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

  
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 Anthony Abbott King  
 Planning Inspector

11 October 2024