



An
Bord
Pleanála

Inspector's Report

ABP-320536-24

Development

PROTECTED STRUCTURE:

Retention permission for development which consists of the removal of a wall, steps and a shed to the rear with associated remedial/enabling works. Permission for development which will provide for 8 one bed managed independent living units and all associated site and engineering works necessary to facilitate the development.

Location

Numbers 35 and 36 Sean MacDermott Street Lower, Dublin 1

Planning Authority

Dublin City Council North

Planning Authority Reg. Ref.

3733/24

Applicant(s)

Dublin Simon Community

Type of Application

Retention permission & permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellant(s)	Paul Laird, Carol Doyle & Tracy Smith
Observer(s)	None
Date of Site Inspection	04 th February 2025
Inspector	Bernadette Quinn

1.0 Site Location and Description

- 1.1. The appeal site is located on the northern side of Sean McDermott Street. The site has an area of 0.0632 ha and contains two no. three storey over basement buildings which contain independent living accommodation. No. 35 is an end of terrace four-bay three storey over basement building which is included on the Record of Protected Structures. No 36 is of more recent construction and is a two-bay three storey over basement building with a redbrick façade.
- 1.2. Immediately to the west is Sean McDermott Street swimming pool, to the east is a terrace of three storey houses and to the northeast on Rutland Street Lower is a terrace of two storey over basement dwellings.

2.0 Proposed Development

- 2.1. Retention permission is sought for the removal of a wall, steps and a shed to the rear with associated remedial/enabling works.
- 2.2. Permission is sought for a four storey over basement rear extension to the existing structure at 35-36 Sean McDermott Street Lower. The extension will provide 8 no. managed independent living units, comprising of 6 no. 1 bedroom and 2 no. studio units. The development will also provide a landscaped communal open space and a bin store and shed situated to the rear of the site. 12 bicycle parking spaces are proposed.
- 2.3. The planning application was accompanied by documents including an Archaeological Impact Assessment, Heritage Impact Assessment, Appropriate Assessment Screening Report, and a Basement Impact Assessment Report.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority issued notification of decision to grant permission on 16th July 2024 subject to 10 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planning officer can be summarised as follows:

- The same development was granted planning permission under Reg. Ref: 3863/18 which was unable to be completed during the permission period.
- The Development Plan identifies the pressing need to create high quality accommodation to address housing issues including homelessness and supports the Homeless Action Plan 2022-2024.
- The extension is sufficiently setback from the protected structure and the bulk of the building is broken down by way of indentations in the form of the elevations.
- The suitability of the proposal has already been established under 3863/18.
- The location of the extension at the western part of the site means that the building is unlikely to impact negatively on neighbouring residential properties due to the distance from these properties.
- The height is considered appropriate to the rear as previously approved and is sufficiently set back from the protected structure at the upper levels and a reduction in the extent of the extension is not warranted.
- The proposed development will provide long term accommodation for an additional eight residents.
- The proposal would be in accordance with the Z1 zoning objective and is unlikely to negatively impact on the amenities of adjacent properties.

3.2.2. Other Technical Reports

Conservation Officer

The report of the Conservation Officer can be summarised as follows:

- Due to its large scale the extension would have a significant visual impact on the character and setting of the protected structure and streetscape. The roof height would exceed the rear parapet line of the protected structure and would be visible from Sean McDermott Street.

- The extension would dominate the protected structure and therefore contravene development plan policy BHA2 (d) that states, “Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials.”.
- It is recommended that the upper floor be omitted to mitigate the visual impact by ensuring the extension remains subordinate in height to the protected structure.
- Recommends that permission be granted subject to conditions.

Road Planning Division

- No objection subject to conditions.

Environmental Health

- No objection subject to conditions.

Drainage Division

- No objection subject to conditions.

Archaeological Report

- The proposed development is partially within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (HISTORIC CITY). No objection subject to conditions.

3.2.3. Conditions

The following conditions of note were attached by the planning authority:

- Condition 2 relates to the requirements of the Conservation Section, including monitoring of works by a conservation expert and details of proposed material finishes.
- Condition 4 relates to Drainage Section requirements and includes a requirement for a site survey to establish all public surface water sewers that may be on site.

- Condition 7 relates to Archaeology Section requirements including a requirement for an Archaeological Impact Assessment.

3.3. **Prescribed Bodies**

TII: If not exempt, a condition to apply the Section 49 Luas Line Levy should be attached.

3.4. **Third Party Observations**

- 3.4.1. One no. third party observation was received in relation to the planning application. Issues raised are similar to those raised in the third party appeal.

4.0 **Planning History**

4.1. **Appeal Site:**

3863/18: Permission granted by Dublin City Council on 25/01/2019 for development consisting of the demolition of the existing emergency stairway, the construction of a new stairway and the construction of a four storey over basement extension providing 8 no. managed independent living units comprising 6 No.1 bedroom independent living units and 2 No. studio type independent living units together with the relocation of the existing fire escape door and the opening of a second fire escape door to the adjoining right of way, the placing of photovoltaic panels at roof level and works to rear and communal terrace on roof level all at 35 and 36 Sean Mac Dermott Street Lower. This permission has expired.

3414/14: Permission granted by Dublin City Council on 15/12/2014 to refurbish and upgrade the existing supported housing bedrooms to independent living units with shared communal facilities at no. 35 and no. 36, a four storey, 23 no. bedroom supported accommodation service, to now provide for a four storey, 12 no. (4 no. 2 bed; 8 no.1 bed) supported independent living units service with shared communal facilities.

0746/93: Permission granted by Dublin City Council for demolition of existing house at no. 36 Sean McDermott Street Lower and its replacement with a new 3 storey

over basement residential building linked to the existing house at 35 Sean McDermott Street Lower which is to be altered and extended.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Dublin City Development Plan 2022-2028 is the relevant statutory plan for the area. The site is zoned Z1 'Sustainable Residential Neighbourhoods' with the objective 'To protect, provide and improve residential amenities'. Residential is considered a permissible use on this land use zoning.
- 5.1.2. The development plan has regard to national and regional planning policies in respect of infill development within existing built-up areas. Chapter 4: Shape and Structure of the City emphasises the importance of high quality placemaking to ensure a compact city where people want to live and work. Chapter 5: Quality Housing and Sustainable Neighbourhoods aims to deliver quality homes and sustainable communities in a compact city. In Chapter 5 Policy QHSN27 Homeless Action Plan 2022-2024, a Framework for Dublin states 'To support the implementation of the Homeless Action Plan 2022-2024, a Framework for Dublin or any subsequent review and the Housing First National Implementation Plan 2022-2026 and support related initiatives to address homelessness'.
- 5.1.3. Chapter 11 of the development plan refers to Built Heritage and Archaeology. Section 11.5.1 states that all works to protected structures shall be carried out to the highest standards in accordance with the Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht, 2011). Policy BHA2 Development of Protected Structures which states: It is the Policy of Dublin City Council that development will conserve and enhance protected structures and their curtilage and will: (a) Ensure that any development proposals to protected structures, their curtilage and setting shall have regard to the Architectural Heritage Protection Guidelines for Planning Authorities (2011) published by the Department of Culture, Heritage and the Gaeltacht. (b) Protect structures included on the RPS from any works that would negatively impact their special character and appearance. (c) Ensure that works are carried out in line with best conservation

practice as advised by a suitably qualified person with expertise in architectural conservation. (d) Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting is sensitively sited and designed, and is appropriate in terms of the proposed scale, mass, height, density, layout and materials. (c) Ensure that the form and structural integrity of the protected structure is retained in any redevelopment and ensure that new development does not adversely impact the curtilage or the special character of the protected structure. (d) Respect the historic fabric and the special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials. (e) Ensure that new and adapted uses are compatible with the architectural character and special interest(s) of the protected structure. (f) Protect and retain important elements of built heritage including historic gardens, stone walls, entrance gates and piers and any other associated curtilage features. (g) Ensure historic landscapes, gardens and trees (in good condition) associated with protected structures are protected from inappropriate development. (h) Have regard to ecological considerations for example, protection of species such as bats.

5.1.4. Chapter 15 provides guidance on the creation of high-quality urban environments that make the most efficient use of land, including relating to Apartment Standards. In relation to infill housing, Section 15.13.3 states that the planning authority will favourably consider the development of infill housing on appropriate sites, having regard to development plan policy on infill sites and to facilitate the most sustainable use of land and existing urban infrastructure. In general, infill housing should comply with all relevant development plan standards for residential development including unit sizes, dual aspect requirements, internal amenity standards and open space requirements. In certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land is developed.

5.1.5. Table 15-1 Thresholds for Planning Applications indicates that a Daylight and Sunlight Assessment is required for all apartment developments. Section 15.9.16 states that a daylight and sunlight assessment should be provided to assess the impact of the proposed development on the surrounding properties and amenity areas outside the site boundary and assess the daylight and sunlight received within each individual unit and communal areas of a proposed scheme. A best practice

guide for the assessment and methodology of Daylight and Sunlight Assessments is set out in Appendix 16 within which it is stated that proposals will be assessed on a case-by-case basis depending on site specific circumstance and location.

- 5.1.6. Appendix 3 sets out that prevailing height is defined as the most commonly occurring height in any given area. Within such areas, there may be amplified height. This is where existing buildings within the streetscape deviate from the prevailing height context, albeit not to a significant extent, such as local pop up features. Locally higher buildings are defined as buildings that are significantly higher than their surroundings. Appendix 3 also provides indicative plot ratio and site coverage calculations for different area types. The calculations provided for the Central Area are an indicative Plot Ratio of 2.5-3.0 and site coverage of 60-90% and in Residential Areas an indicative Plot Ratio of 1.0-2.5 and site coverage of 45-60%.
- 5.1.7. No. 35 Sean McDermot Street is a protected structure, RPS No. 7479 described as stucco building (former Carpenters' Asylum).
- 5.1.8. The site is within an area designated a Zone of Archaeological Interest, located within the Zone of Archaeological Constraint for Recorded Monument DU18-020.

5.2. Section 28 Ministerial Guidelines

The following ministerial guidelines are considered relevant to the appeal site:

- 5.2.1. Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities (2024) (the 'Compact Settlements Guidelines').
- These guidelines outline that residential densities in the range 100 dph to 300 dph (net) shall generally be applied in Dublin City.
 - SPPR 1 requires a separation distance of at least 16 metres between opposing windows serving habitable rooms above ground floor level.
 - SPPR 3 provides that in city centres car-parking provision should be minimised, substantially reduced or wholly eliminated.
 - SPPR 4 relates to cycle parking and storage.
 - Section 5.3.7 deals with Daylight and states 'The potential for poor daylight performance in a proposed development or for a material impact on neighbouring properties will generally arise in cases where the buildings are

close together, where higher buildings are involved, or where there are other obstructions to daylight. Planning authorities do not need to undertake a detailed technical assessment in relation to daylight performance in all cases. It should be clear from the assessment of architectural drawings (including sections) in the case of low-rise housing with good separation from existing and proposed buildings that undue impact would not arise, and planning authorities may apply a level of discretion in this regard'. This section outlines the relevant guidelines to consider in cases where a technical assessment of daylight performance is required and states 'In drawing conclusions in relation to daylight performance, planning authorities must weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision, against the location of the site and the general presumption in favour of increased scales of urban residential development. Poor performance may arise due to design constraints associated with the site or location and there is a need to balance that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution'.

5.2.2. Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023)

- These guidelines set out national policy and standards for apartment development including recommended standards in relation to housing mix, aspect, and minimum floor areas.
- SPPR 3 sets out minimum apartment floor areas.
- The guidelines provide that for urban infill schemes on sites of up to 0.25ha, certain standards may be relaxed on a case-by-case basis, subject to overall design quality.

5.2.3. Architectural Heritage Protection Guidelines for Planning Authorities Department of Arts, Heritage, Gaeltacht 2011

- These guidelines provide guidance in relation to development and built heritage, in particular works affecting historical buildings or structures. This guidance sets out comprehensive guidance for development affecting

protected structures. It promotes the principle of minimum intervention (Para.7.7.1) and emphasises that additions and other interventions to protected structures should be sympathetic to the earlier structure and of quality in themselves and should not cause damage to the fabric of the structure, whether in the long or short term (Para.7.2.2).

5.3. National Inventory of Architectural Heritage

- 5.3.1. The building is listed on the National Inventory of Architectural Heritage (NIAH) (ref: 50011148), wherein it has been assigned a Regional rating and of Architectural, Artistic and Social interest.

5.4. Natural Heritage Designations

None relevant.

5.5. EIA Screening

- 5.5.1. See Appendix 1 - Form 2 EIA Preliminary Examination attached to this report. Having regard to the nature and scale of the proposed development, to the established urban nature of the receiving environment, to the nature, extent, characteristics and likely duration of potential impacts, and to the criteria set out in Schedule 7 of the Regulations, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Assessment is not required. 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

A third party appeal has been received from Paul Laird, Carol Doyle & Tracy Smith. The appeal includes a copy of submissions to the planning authority in relation to the planning application. The grounds of appeal can be summarised as follows:

- There was a lack of consultation in relation to the proposal, claims regarding consultation held in relation to a previous application on site are untrue and a request for consultation in relation to the current application was refused.
- The appeal does not relate to the principle of development of supported accommodation on the site but rather the mass and scale which is inappropriate and will result in overshadowing and overlooking.
- The proposed extension will have a negative impact on the protected structure as it is taller and the proposed parapet height exceeds the parapet and apex of the pitched roof of the protected structure.
- The PA failed to consider the application on its merits, referring to the proposal being appropriate as previously approved. This does not take into account the Conservation Officer's and residents' concerns on the subject application.
- The proposal will result in overshadowing. No solar study was submitted and the solar sketches submitted with the previous application are inadequate.
- There are concerns in relation to the floor to floor height proposed between floors 1 and 2 which is excessive.
- Overlooking will occur from windows. More windows face east than west resulting in overlooking into the appellants properties.
- Errors and misrepresentations in the planning application undermine the validity of the decision. The stated site area, plot ratio and site coverage are inaccurate.
- The floor areas are below the minimum recommended floor areas contained in guidelines.
- Minimal communal amenity space is proposed. Section 4.11 of the Sustainable Urban Housing: Design Standards for New Apartments requires 100 sq.m. Following construction very little sunlight will reach the remaining garden for most of the year.
- The existing garden has been removed.

- A suitable proposal would include a lower overall height, opaque or indirect glazing on east and west facing windows and reduced floor height on the second floor and roof gardens.

6.2. Applicant Response

The first party response includes a Planning Report and Conservation Method Statement relating to the 2018 planning application and a Daylight and Sunlight Report.

- Consultation with neighbouring residents took place under 3863/18 and the request for consultation in relation to the current application arose after the planning application was lodged.
- The proposed scale and mass were reduced following pre-planning consultation under 3863/18.
- The Planning Officer considered the height is appropriate to the rear and is sufficiently set back from the protected structure at upper levels.
- The Conservation Officers report is generally of the opinion that there will be a neutral impact on the protected structure.
- Historic stone that was removed under the previous permission has been salvaged and will be reused in the proposed development to preserve the vernacular heritage of the building.
- A Daylight and Sunlight report submitted with 3863/18 finds that occupants of surrounding property will not notice a reduction in the amount of skylight received as the proposal meets the criteria for all windows tested for light from the sky. An assessment of shadow cast for 21st March at various times during the day on adjoining properties arising from the proposed development finds no issues arising from the proposed development.
- The design minimises overlooking by setback of windows and recessed courtyards. Units on the upper floor are setback to avoid overlooking on dwellings to the northeast.

- Separation distances between rear opposing windows exceed 16m with 21.6m provided between the east windows of the proposed extension and no. 26 Rutland Street Lower.
- A height of 4 storeys over basement with the 4th floor set back and an overall height of 13.8m is appropriate for this inner city location in accordance with the development plan and the prevailing building height of up to 6 storeys.
- It is critical that floor levels align with the existing building, and this is cognisant of the traditional built heritage and Georgian architectural style.
- Inconsistencies in planning applications are clarified and the site has a plot ratio of 2.1 and site coverage of 64.5%.
- The proposal is for a specialist social housing extension to an existing facility which has been designed in accordance with the requirements of Dublin City Council. The independent living units are in a congregated setting with communal facilities available to all residents and will provide accommodation for individuals exiting homelessness or who are at risk of becoming homeless. The units will never be disposed of to the private market.
- It is proposed to reinstate the garden which was removed to facilitate construction under the previous planning application.

6.3. Planning Authority Response

None received.

6.4. Observations

None received.

6.5. Further Responses

A third party response to the first party response to the appeal can be summarised as follows:

- The destruction of the residential amenity of the area as a result of the proposed development has the potential to discourage families from living in the area.
- It is not accepted that sufficient engagement has been carried out.
- The first party response deliberately misinterprets the Local Authority Conservation Officers report in relation to the assessment of the proposed development.
- The Daylight and Sunlight report is inadequate and incomplete as it does not assess all metrics required by the Dublin City Development Plan which requires metrics from both BS 8206-2 and BS EN 17037.
- In relation to the stated setback at fourth floor, the width of the fourth floor is the same as the width of the ground floor with the only difference being the absence of a unit immediately opposite the existing extension on the appeal site which is of negligible difference to residents of the existing houses.
- The applicant has failed to comply with the previous planning permission on the site by demolishing walls prior to a full historic survey being carried out as required by a condition of that permission.
- The gardens on Lower Rutland Street are at basement level and the height of the proposed extension from base to parapet is 16.66m. The area omitted at fourth floor is not at a part of the building that would overshadow neighbouring properties.
- The appellants gardens are currently unaffected by overlooking and will be overlooked by the proposed development.
- The prevailing height described by the first party is inaccurate. The site is classified as “Sustainable Residential Neighbourhoods”. No classification of “inner city” is included in the development plan as described by the first party.
- The upper floor does not align with any existing floor and so the argument relating to aligning of floors is not relevant.
- There are errors in relation to site area and rooms sizes.

7.0 Assessment

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

- Principle of Development
- Impact on Built Heritage
- Impacts on Residential Amenity
- Other Matters

7.2. Principle of Development

The existing buildings on the appeal site are used for independent living and the proposal would be an extension of this existing use to provide for 8 managed independent living units for single users in the Local Authority's administrative area who are vulnerable to being homeless to assist in the transition from homelessness to social housing.

7.2.1. The application is stated to be a resubmission of planning ref 3863/18 which was previously granted and has now expired. The retention element relates to enabling /remedial works that commenced on site to facilitate the construction of the permitted development under Reg. Ref. 3863/18.

7.2.2. The site is zoned 'Objective Z1 – Sustainable Residential Neighbourhoods' and residential use is a permissible use on Z1 zoned land. The proposal relates to an extension to the existing residential use on the site. I am satisfied that the principle of residential development is acceptable on this site, subject to other relevant considerations, including the impact of the proposed development on the built heritage of the area and residential amenities of surrounding properties.

7.2.3. In relation to concerns that the planning authority failed to assess the merits of the application, I am satisfied that the planning authority assessed the proposal as submitted, that the principle of development is acceptable, and that the main issues for consideration are those outlined in the assessment below.

7.3. Impact on Built Heritage

- 7.3.1. The building at No. 35 Sean McDermott Street is included on the Record of Protected Structures in the development plan wherein it is described as “Stucco building (former Carpenters’ Asylum)”. The proposed development comprises demolition of an existing three storey over basement extension to the rear of no. 35. The structure to be demolished is stated as non-original, has a flat roof and contains a stairwell. A new extension is proposed which is partly recessed where it meets the side elevation of no. 35, at which point the proposed new extension will be three storey over basement. This section will have a flat roof at a height of 11.264m above ground level and a proposed parapet height in line with the eaves of the existing protected structure at no. 35. The proposed extension increases in width towards the rear in line with the existing western side elevation of no 35 and increases in height to 4 storeys over basement. This section will have a height of 16.6m above basement level and 13.8m above proposed ground floor level and a flat roof in line with the height of the existing chimney stack at no. 35. The extension extends 19.7m in depth from the rear façade of no. 35, with the 3 storey element extending 5m and the 4 storey element extending a further 14.7m. The extension has a maximum width of 8.65m and will, in part, adjoin a laneway to the west of the site beyond which is an existing swimming pool building. To the north a minimum setback of approx. 0.8m is proposed beyond which is Rutland National School Sports Hall. Material finishes will include a mix of brick and coloured render and includes windows serving proposed residential units.
- 7.3.2. A Heritage Impact Assessment Statement prepared by John Cronin & Associates was submitted with the planning application. The report notes that the buildings on site underwent extensive internal remodelling and were refurbished in 2016. The rear of the property is described as entirely modern and devoid of fabric of architectural heritage significance. Stone removed during works carried out on foot of the previous permission on the site has been stored off-site and is proposed to be reused in localised boundary treatments within the proposed development. The report states that none of the remaining fabric within the protected structure will be affected and construction works will be confined entirely to the rear of the property and that the proposed development will not give rise to significant negative impacts on the protected structure and the streetscape of Sean McDermott street.

- 7.3.3. The local authority Conservation Officer's (CO) report states that due to its large scale, the proposed rear extension would have a significant visual impact on the character and setting of the Protected Structure and streetscape and that the top floor incorporating unit 8 and its associated stairs would result in an overall roof height that would exceed the rear parapet line of the protected structure and would be visible from Sean McDermott Street. The CO states that visually the height differential between the protected structure and extension would cause the latter to dominate the historic building and would contravene DCC Policy BHA2 (d). The CO recommends that the upper floor containing Unit 8 and the associated stairs at this level be omitted to mitigate the visual impact of the proposed extension by ensuring it remains subordinate in height to the principal structure. The local authority Planning Officer considered the proposal acceptable, noting that the extension is sufficiently setback from the protected structure and that the bulk of the building is broken down by way of indentations in the form of the elevations.
- 7.3.4. I have considered the report of the local authority CO and the concerns raised in the appeal in relation to the impacts of the extension on the protected structure. The four storey extension will extend approx. 2.4m above the eaves of the protected structure at no. 35 and will be visible on approach to the site from the west. The four storey element is separated from the rear façade of the protected structure by a three storey recessed extension and the west elevation is recessed in part from the existing side elevation. The surrounding pattern of development includes a mix of residential and community uses with varying heights of between two and six storeys and varying styles including two and three storey traditional residential buildings, and more modern buildings which include the Sean McDermott Street swimming pool building immediately to the west of the site, six storey apartments on the opposite side of the street and a church and four storey school to the west. Given the context of the appeal site, I consider the height, scale and massing of the proposal is appropriate, with an overall appearance which respects the context of the site and the surrounding area. I consider the design proposed, with the four storey element set back from the rear façade of the protected structure, will not be detrimental to the special character or setting of the protected structure. I do not share the concerns of the CO that the extension would contravene policy BHA2 (d) of the development

plan and I consider the proposed extension is appropriate in terms of scale and height for this location and complies with Policy BHA2.

- 7.3.5. In relation to the CO's concerns regarding the impact on the streetscape, I note that the appeal site is not within an Architectural Conservation Area or other designated conservation area in the development plan and having regard to the scale and design proposed, I consider the development will not result in a negative visual impact on the streetscape.

7.4. Impacts on Residential Amenity

Overshadowing and Loss of Daylight

- 7.4.1. The appeal raises concerns in relation to loss of light and overshadowing on neighbouring properties. A Daylight and Sunlight Report submitted with the first party response to the appeal assesses existing and proposed development on the appeal site and surrounding properties to the northeast of the site on Rutland Street Lower. In relation to existing development, the report provides Light from the Sky results which measures vertical sky component and which indicates a number of rooms in the existing accommodation on the appeal site will be below the criteria as a result of the proposed development and that 60% of the windows assessed under this methodology meet the criteria. Results for properties assessed on Rutland Street Lower show all windows assessed meet the criteria. The report provides Average Daylight Factor for the existing units on the appeal site and the proposed development which shows a number of existing rooms fall below the criteria and notes that moderate levels of daylight have been achieved across the proposed development, with 56% of rooms assessed under this methodology meeting the criteria. The report was prepared in 2018 and includes a statement that it was prepared using the guidance set out in "Site Layout Planning for Daylight and Sunlight". I note that this guidance has been updated since the Daylight and Sunlight Report was prepared and that the most recent version of 'Site Layout Planning for Daylight and Sunlight' was published in 2022. I also note the concerns of the third party that not all of the required metrics in relation to daylight and sunlight have been assessed.
- 7.4.2. Shadow cast drawings are included which appear to indicate that the proposed extension would result in overshadowing on the existing units on the appeal site and

on the proposed rear amenity space in the afternoon and evening. For a development to be acceptable with respect to overshadowing impacts, the BRE 209 Guide (third edition) recommends that for it to appear adequately sunlit throughout the year greater than half of a garden or amenity area should receive at least two hours of sunlight on 21st March, or a change in overshadowing that would be no less than a ratio of 0.8 when compared with the existing situation. The shadow cast drawings submitted do not provide an assessment of existing levels of overshadowing and as such it is not possible to compare the proposed overshadowing with the existing situation to determine additional overshadowing as a result of the development.

- 7.4.3. The BRE guidelines state in Section 1.6 that the advice given is not mandatory and the guide should not be seen as an instrument of planning policy. Section 5.3.7 of the Compact Settlements Guidelines notes that when considering new residential development it is important to safeguard against a detrimental impact on the amenity of other sensitive occupiers of adjacent properties. The guidelines outline that planning authorities do not need to undertake a detailed technical assessment in all cases and may apply a level of discretion in relation to daylight performance. The Development Plan, in Section 15.13.3, provides that in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land is developed.
- 7.4.4. Having regard to the scale of development proposed and the distance from properties on Rutland Street Lower, as well as the findings of the Daylight and Sunlight Report, I consider the proposal is unlikely to result in adverse impacts on levels of daylight and sunlight in surrounding properties outside the appeal site and I consider it unlikely that the proposed extension will give rise to overshadowing beyond what already occurs at these properties. In relation to loss of daylight and sunlight to existing rooms and proposed rooms and amenity space on the appeal site, whilst the proposed extension will give rise to impacts in this regard as noted in the Daylight & Sunlight report submitted, I consider the resulting levels would not be out of character for a city centre location and I note the proposal seeks to provide for an increased scale of development at this urban location in line with wider planning objectives. Having regard to the above, I am satisfied that the proposed development is acceptable in relation to impacts on sunlight and daylight.

Overlooking and Overbearing

- 7.4.5. The third party raise concerns in relation to overlooking from windows on the east elevation. The proposed extension has a separation distance of 21.6m between the proposed east façade and rear opposing windows on the rear elevation of properties on Rutland Street Lower and is set back a minimum of 11.8m from the eastern site boundary. SPPR 1 of the Compact Settlements Guidelines requires a separation distances in excess of 16m between opposing windows above ground floor level. The proposal exceeds the recommendations in this regard and I am satisfied that it is sufficiently separated such that it will not give rise to unacceptable impacts of overlooking on surrounding properties. Having regard to the height of the proposed extension at four storeys and distance from neighbouring properties, I do not consider the proposal will give rise to overbearing impacts. As such, in the event of a grant of permission by the Board, I do not consider it necessary to require screening of windows to reduce overlooking.
- 7.4.6. The third party raise concerns in relation to proposed floor to ceiling heights which are considered excessive resulting in negative impacts. I am satisfied the proposal exceeds the minimum ceiling height recommendation of 2.7m in the Apartment Guidelines and that the design and heights proposed do not result in a negative visual impact at this location.

Internal Standards

- 7.4.7. SPPR 3 of the Apartment Guidelines sets out minimum apartment floor area requirements, with a minimum of 37 sq.m. per studio (1 person) and a minimum of 45 sq.m. for a 1 bedroom apartment (2 persons). I note that the majority of units are below the minimum floor areas included in Appendix 1 of the Apartment Guidelines. The floor plans submitted indicate all units for single occupancy in line with the intended use of the units and the proposal includes a communal kitchen at basement level to accommodate a congregated setting. The first party notes that the units are not intended for sale on the open market but for occupation by single users in the Local Authority's administrative area who are vulnerable to being homeless to assist in the transition from homelessness to social housing. Whilst I note that the units fail to comply with the standards set out in SPPR 3 of the Apartment Guidelines, these guidelines provide that for urban infill schemes on sites of up to 0.25ha, certain

standards may be relaxed on a case-by-case basis, subject to overall design quality. Having regard to the design and scale of development proposed, and to the single occupancy nature of the units which are provided within a congregated setting with provision of communal facilities, I am satisfied that the proposal is acceptable in relation to unit size.

- 7.4.8. In relation to concerns that the proposal provides minimal communal amenity space, I note that Appendix 1 of the Apartments Guidelines includes a requirement for communal amenity space of 4 sq.m. per studio and 5 sq.m. per 1 bed unit and Section 4.11 requires that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year. Communal open space is provided by way of a courtyard and garden to the rear of the site measuring in excess of 100 sq.m. and a terrace at fourth floor measuring approx. 35 sq.m. I am satisfied that the communal amenity space provides for in excess of the minimum quantum required and whilst overshadowing will occur, the spaces are provided for in various locations within the site for use throughout the day.
- 7.4.9. Having regard to the above, I am satisfied that the proposed development will provide for an acceptable level of amenity for existing residents in the vicinity of the site and for future occupants of the proposed development.

7.5. Other Matters

- 7.5.1. The third party appeal included a request for an oral hearing. The Board Direction on file dated 01/10/2024 states that the Board has decided that sufficient information on file and that an oral hearing is not required.
- 7.5.2. In relation to concerns raised regarding lack of consultation, I note that there is no obligation on an applicant for permission to carry out consultation in advance of submitting a planning application.
- 7.5.3. In relation to concerns regarding inaccurate site size and plot ratio, the planning application form states that the site has an area of 632.75 sq.m which the first party states was calculated following a site survey in advance of the 2024 application. The proposed site coverage is 64.5% and plot ratio is 2.1. Whilst the site coverage is slightly above that recommended for residential areas, I note that it is at the lower end of the range for central areas and I am satisfied that the proposal is in

accordance with the development plan indicative standards and is appropriate for this location.

- 7.5.4. In relation to the concerns raised that the existing garden has been removed, I note that the proposal includes details of proposed landscaping to serve the development which I consider acceptable.
- 7.5.5. Having regard to the sites location within a Zone of Archaeological Potential, if the board decides to grant permission I recommend the inclusion of a condition in relation to compliance with the submitted Archaeological Impact Assessment
- 7.5.6. The application form states that the applicant is a charity organisation. The planning authority did not include any conditions relating to financial contributions and I do not consider it appropriate to attach conditions to this effect if the Board decides to grant permission.
- 7.5.7. In relation to compliance with the requirements of Section 96 of the Planning and Development Act relating to the provision of Social and Affordable Housing, the applicant has stated in their planning application that Dublin Simon Community are an approved housing body and are exempt from the provisions of Part V. As such I consider that no condition requiring compliance with Section 96 of the Act should be attached in the event the Board decides to grant permission.

8.0 AA Screening

- 8.1.1. I have considered the proposed development comprising retention permission for removal of a wall, steps and shed and permission for 8 no. independent living units in light of the requirements of S 177S and 177U of the Planning and Development Act 2000 as amended.
- 8.1.2. A Screening Report for Appropriate Assessment was submitted with the planning application. The report finds that significant effects to Natura 2000 sites will not arise as a result of the project, either alone or in combination with other plans and projects. The report identifies the nearest designated sites which include North Dublin Bay SAC, North Bull Island SPA, South Dublin Bay and River Tolka Estuary SPA, South Dublin Bay SAC, North-West Irish Sea SPA and Poulaphouca Reservoir SPA. The report states that the proposed development is not located within, or

adjacent to, any SAC or SPA and finds no negative effects to Natura 2000 sites can arise from construction or operation of the proposed development or the development for which retention permission is sought. No mitigation measures were taken into account in carrying out the AA screening. The Planning Authority reviewed the information and was satisfied that a full Appropriate Assessment of the project was not required.

- 8.1.3. The project is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 8.1.4. A detailed description of the proposed development is presented in Section 2 of my report. In summary, the proposed development site is a developed site within an existing urban environment with surrounding development including residential, community and commercial uses. The development comprises retention works including removal of a wall steps and shed and associated enabling works and an extension to existing independent living units comprising 8 no. additional units. Water and waste will be connected to existing infrastructure. The drainage for the proposed development will be designed on a separate foul and surface water system with a combined final connection discharging into Uisce Éireann's combined sewer system with discharge to Ringsend WWTP.

European Sites

- 8.1.5. The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation (SAC) or Special Protection Area (SPA).
- 8.1.6. The closest European Sites are South Dublin Bay and River Tolka SPA (004024) located 1.6km east of the site and South Dublin Bay SAC (000210) located 3km southeast of the site. Qualifying interests and conservation objectives for each of the sites are listed on the National Parks and Wildlife Services (NPWS) website (www.npws.ie). Given the limited scale of the proposal, I do not consider it necessary to examine the potential for significant effects on any European Sites beyond those listed above.
- 8.1.7. There are no watercourses or other ecological features of note on the site that would connect it directly to European Sites in the wider area. The nearest pathways to the

nearest designated sites from the appeal site are the River Liffey located c. 650m to the south of the appeal site and the Royal Canal located c. 600m east of the appeal site, both of which flow into Dublin Bay.

Likely impacts of the project (alone or in combination)

- 8.1.8. Due to the enclosed nature of the development site and the presence of a significant buffer area comprising existing urban development between the site and the nearest pathways to European Sites, I consider that the proposed development would not be expected to generate impacts that could affect anything but the immediate area of the development site, thus having a very limited potential zone of influence on any ecological receptors. The proposed development would not have direct impacts on any European site.
- 8.1.9. During site clearance, demolition and construction of the proposed development and site works, possible impact mechanisms of a temporary nature include generation of noise, dust and construction related emissions to surface water. The contained nature of the site which is serviced with no direct ecological connections or pathways, and distance from receiving features connected to South Dublin Bay and River Tolka SPA and South Dublin Bay SAC make it highly unlikely that the development could generate impacts of a magnitude that could affect European Sites.

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

- 8.1.10. The construction or operation of the proposed development will not result in impacts that could affect the conservation objectives of the SAC or SPA. Due to distance and lack of meaningful ecological connections there will be no changes in ecological functions due to any construction related emissions or disturbance. There will be no direct or ex-situ effects from disturbance on mobile species during construction or operation of the proposed development. The proposed development will not result in any effects that could contribute to an additive effect with other developments in the area. No mitigation measures are required to come to these conclusions.

Screening Determination

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

This determination is based on:

- The scale of the development and lack of impact mechanisms that could significantly affect a European Site;
- Distance from and lack of connections to the European sites;
- The disposal of foul water to the public foul sewer system and surface water to the public surface water sewer network for required treatment;
- Taking into account the screening determination by the planning authority.

9.0 Recommendation

9.1. I recommend that planning permission be granted for the following reasons and considerations.

10.0 Reasons and Considerations

10.1. Having regard to the established use of the property; the design, nature and scale of the proposed development and the development to be retained, to the pattern and character of development in the vicinity, and to the policies of the Dublin City Development Plan 2022-2028, as well as national guidance including the 'Architectural Heritage Protection Guidelines for Planning Authorities' (2011), it is considered that, subject to compliance with the conditions set out below, the development to be retained and the proposed development would not have a significant adverse effect on the character of the protected structure, would not detract from the character of the area, would provide an acceptable level of residential amenity for the future occupants and would not seriously injure the

amenities of adjacent residential property. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and 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.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. Prior to the commencement of development the applicant/developer shall submit, for the written agreement of the planning authority, a detailed method statement covering all works proposed to be carried out, including:

(a) a full specification, including details of materials and methods, to ensure the development is carried out in accordance with current Conservation Guidelines issued by the Department of Arts, Heritage & the Gaeltacht,

(b) methodology for the recording and/or retention of concealed features or fabric exposed during the works,

(c) details of features to be temporarily removed/relocated during construction works and their final re-instatement,

(d) materials/features of architectural interest to be salvaged,

Reason: In the interest of the protection of architectural heritage.

4. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the relevant Section of the Council for such works and services.

Reason: In the interest of public health and surface water management

5. 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.

6. All mitigation measures in relation to archaeology and cultural heritage as set out in the Archaeological Impact Assessment included in application documents shall be implemented in full, except as may otherwise be required in order to comply with the conditions of this permission. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any archaeological investigative work/ excavation required, following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

7. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety.

8. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and

Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling.

9. Site development and building works shall be carried out between the hours of 0700 to 1800 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 amenity of property in the vicinity

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

Reason: In the interest of public safety and amenity.

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.

Bernadette Quinn
Planning Inspector

17th January 2025

Form 1

EIA Pre-Screening

An Bord Pleanála	ABP-320536-24		
Case Reference			
Proposed Development Summary	<p>PROTECTED STRUCTURE: Retention permission for development which consists of the removal of a wall, steps and a shed to the rear with associated remedial/enabling works.</p> <p>Permission for development which will provide for 8 one bed managed independent living units and all associated site and engineering works necessary to facilitate the development.</p>		
Development Address	Numbers 35 and 36 Sean MacDermott Street Lower, Dublin 1		
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	Tick if relevant and proceed to Q2.
		No	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Class 10 (b) (i) and Class 10 (b) (iv).	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required

No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Class 10 (b) (i) and Class 10 (b) (iv).	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320536-24
Proposed Development Summary	PROTECTED STRUCTURE: Retention permission for development which consists of the removal of a wall, steps and a shed to the rear with associated remedial/enabling works. Permission for development which will provide for 8 one bed managed independent living units and all associated site and engineering works necessary to facilitate the development.
Development Address	Numbers 35 and 36 Sean MacDermott Street Lower, Dublin 1
<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>	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The proposal comprises development of 8 independent living units and all associated site works on a site area of 0.0632ha. The development comes forward as a standalone project, requires limited demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.

<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The development is situated in an urban area and is removed from sensitive natural habitats and designated sites and landscapes of identified significance in the County Development Plan. The proposal will use the existing public water and wastewater services of Uisce Eireann, upon which its effects would be marginal.</p> <p>It is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.</p> <p>There is a protected structure RPS No. 7479 located on the site and the site is within the Zone of Archaeological Constraint for Recorded Monument DU18-020. Having regard to the scale of development proposed and the existing urban environment, existing sites of historic or archaeological significance are not likely to be affected.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>

Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	
There is a real likelihood of significant effects on the environment.	EIAR required.	

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)