

An
Bord
Pleanála

Inspector's Report

ABP-321310-24

Development

Demolition of 3 vacant sheds and construction of 3 two-storey 2-bedroom plus study mews houses with existing access from Saint Brendan's Cottages together with all associated works & services.

Location

Rear of No.s 4-16 Saint Brendan's Cottages, Dublin 4.

Planning Authority

Dublin City Council South.

Planning Authority Reg. Ref.

3961/24.

Applicant(s)

JP Dairy Developments Limited.

Type of Application

Planning Permission.

Planning Authority Decision

Split Decision.

Type of Appeal

First Party and Third-Party Appeals.

Appellant(s)

- JP Dairy Developments Limited (First Party).
- Deirdre Bloomer Daly; Cristina Marini; Brian & Gillian Keeley; and

Sharon Coffey & Daragh Redmond (3rd Party).

Observer(s)

1. Margaret O’Riordan.
2. Christopher Barry.
3. Paul Nagle, Genevieve MacKenzie & Others.

Date of Site Inspection

21st day of February, 2025.

Inspector

Patricia-Marie Young.

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Appendix 1 – Form 1 & 2: EIA Pre-Screening & EIA Screening

1.0 Site Location and Description

- 1.1. Having carried out an inspection of the site I consider that the 'Site Location and Description' provided by the Boards Inspector in their report for appeal case ABP-315876-23 is still applicable. It reads:

"The appeal site is c. 2.5km to the south east of Dublin City centre. It is a backland site between houses on St. Brendan's Cottages and a number of houses in a development known as The Square. St Brendan's Cottages are generally single storey but a number have recently been developed to include raising the roof level and extending at ground and first floor level to the rear.

There are four residential units in the development known as the Square numbered 8A-D. Numbers 8A-C are two storey while 8D is a most recent single storey houses. The site is underutilised and includes a number of old shed style buildings in no apparent current use.

The site can be accessed via two existing gates to the north east of No. 16 and between house No's 6 and 7 St. Brendan's Cottages. The site is located just south west of Ringsend Parks with direct access to the park available from S. Brendan's Cottages. The site has a stated area of 629 m2."

- 1.2. To this I note that in the intervening time the site has become more overgrown and unkempt in its condition. It does not appear to be in any functional use. The site on its north easternmost boundary adjoins Ringsend's Park at a point where there is a walking path and a GAA pitch. I also observed period stone walls along the northern boundary of the site. The ground conditions of the parkland and the public green space of St. Brendan's Cottages were heavily water logged. The site is within 22m to the north east of Irishtown Road (R802) as the bird would fly. This road is served by a number of Dublin Bus routes with the nearest bus stop located to the south of Irishtown Roads junction with Bath Street and with this stop serving Bus Routes 47, C1 and C2. The surrounding setting is predominantly residential in character; however, Irishtown Road has a more mixed character particularly as one travels in a northerly direction with a Primary Care Centre; a Medical Centre; a Library; a Tesco Express; a Church through to a number of retail and commercial related land uses.

2.0 Proposed Development

- 2.1. The proposed development consists of the demolition of the 3 existing vacant shed units and the construction of 3 two-storey, two-bedroom plus study mews houses with existing access from Saint Brendan's Cottages including individual bicycle and bin storage facilities for each house and 3 off street car parking spaces. According to the submitted documentation 237m² of existing buildings are to be demolished; new building floor area is given as 344.2m²; the plot ratio is given as 1:0.54 and the site coverage is 37.4%.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 5th day of November, 2024, Dublin City Council issued a **split decision** which **granted** permission subject to 12 no. mainly standard in nature conditions for Unit 1 and 3 of the proposed scheme, together with their associated works. The conditions imposed include:

Condition No. 3: *“Development shall not commence until revised plans, drawings and particulars showing the following amendments have been submitted to, and agreed in writing by the Planning Authority:*

(a) Unit no. 2, its entrance bicycle parking and bin storage areas shall be omitted.

(b) The entrance to unit no. 1 shall be revised to reflect this omission.

(c) The remaining open space to the rear of unit no. 1 and unit no. 3 shall be split between both units.

Reason: In the interest of visual amenity, residential amenity, proper planning and sustainable development.”

Condition No. 4: Restricts the use of the first-floor courtyard of Unit No. 1 in the interest of residential amenity.

Condition No. 6(c): This condition sets out the Transportation Planning Division requirements and includes sub-condition which requires the driveway entrances for Unit 1 and Unit 3 to be a maximum width of 3m in width and these entrances shall not have outward opening gates. The given reason for the requirements of this condition is: *“in the interests of proper planning and sustainable development”*.

Condition No. 7(e): This sub-condition requires that the flood mitigation measures proposed in the Flood Risk Assessment be fully implemented. The given reason for the requirements set out under this condition is given as: *“to ensure the protection of public drainage infrastructure, and the satisfactory management of surface water runoff”*.

The Planning Authority decision notification Refuse Permission It is recommended that planning permission is **refused** permission for Unit no. 2 for the following reasons:

“Having regard to the two-storey design of the Unit 2, and in the absence of compelling evidence to the contrary, it is considered that the proposed development would give rise to a poor level of residential amenity for the future occupiers of the property and overbearing impacts on adjoining properties, including the adjacent artisan cottages, St. Brendan’s Cottages. As such, the addition no. Unit no. 2 would constitute overdevelopment of this constrained site, would create a precedent for similar type development and would seriously injure the amenities and depreciate the value of property in the vicinity. The proposed development would, therefore, be contrary to the Z1 and Z2 zoning objectives for the site and the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

The **final Planning Officers** report is the basis of the Planning Authority’s decision. It includes the following comments:

- Unit 2 should be omitted on the basis of their residential amenity concerns, including the adverse impact on residential amenities adjoining residential properties.

- The use of the first-floor level courtyard of Unit 1 shall be restricted to safeguards amenities of neighbouring properties.
- The provision of bicycle parking is acceptable subject to safeguards.
- Transportation recommendations are supported.
- Drainage recommendations are supported.
- No AA or EIA issues arising.
- Concludes with a recommendation for a split decision as per Section 3.1.1 above.

The **initial Planning Officers** report (22.08.2024) concluded with a request for further information on the following matters:

- Item 1: Relates to concerns over the quality and outlook of Bedroom No. 2 in Unit 1 and Unit 2 with both considered to be unacceptable.
- Item 2: (a) Relates to boundary treatments, access, and car parking concerns.
(b) Relates to bicycle parking concerns.
- Item 3: Raises adequacy of surface water drainage measures.

3.2.2. Other Technical Reports

- **Drainage:** Final report raised no objection subject to safeguards that included the bespoke requirement of fully implementing the measures set out in the Flood Risk Assessment.
- **Transportation:** Their final report raised no objection subject to safeguards including the bespoke requirement that the driveway entrance serving Unit 1 shall be a maximum width of 3m and the driveway entrance serving Units 2 and 3 shall be a maximum of 4m in width and shall not have outward opening gates.

3.3. Prescribed Bodies

- 3.3.1. None.

3.4. Third Party Observations

- 3.4.1. During the course of the Planning Authority's determination of this application they received 12 no. Third Party observations that collectively objected to the proposed development on generally residential amenity, visual amenity through to civil related matters.

4.0 Planning History

4.1. Site

ABP-315876-23 (P.A. Ref. No. 5282/22): On appeal to the Board permission was **refused** for a development consisting of the demolition of 3 vacant shed units, construction of 3 houses and associated works. The stated reasons and consideration read:

"The proposed dwellings 1 and 2 are designed so as to have first floor bedroom window in each unit facing east. These windows would lie 0.8m from the private amenity space of proposed dwellings 2 and 3 respectively. Notwithstanding proposals to enclose the east boundary of dwellings 1 and 2 by 1.5m high obscure glazing, undue overlooking would arise onto these private amenity spaces which is not considered acceptable for the enjoyment of future occupants of Dwellings 2 and 3. The Board noted the inspector's recommended condition to increase the height of the obscure glazing to prevent such overlooking occurrence. While this would serve to address the overlooking issue of concern, it would also lead to a resultant poor and unacceptable outlook for future occupants of these dwellings where the view out of the bedrooms on the east elevation would be directly facing onto a high obscure glazed privacy screen. The proposed development would, therefore, be contrary to the Z1 and Z2 zoning objectives for the site and the proper planning and sustainable development of the area".

The Boards Direction included the following note:

"In deciding not to accept the Inspector's recommendation to grant permission, the Board noted the inspector's recommended condition to increase the height of the obscure glazing, and while this would in itself serve to address the overlooking of private amenity spaces of dwellings 2 and 3, it would lead to a resultant poor and

unacceptable outlook for future occupants of dwellings 1 and 2 where the view out of the bedrooms on the eastern elevations would be directly facing onto a high obscure glazed privacy screen. While the Board agreed otherwise with the inspector that the site was suitable in principle for redevelopment, the Board was not satisfied that this overlooking issue was satisfactorily resolved in the current design proposal”.

Decision date: 10.04.2024.

P.A. Ref. No. 3621/22: Permission was **refused** for the demolition of 4 vacant units and permission for 4 houses (3 houses after FI) for the following stated reasons:

“1. *The Council is not satisfied that the application has been made by a person who has - (a) Sufficient legal estate or interest in the land the subject of the application to enable the proposed works to be carried out on the said land. b) The approval of the person who has sufficient legal interest or estate. In considering these circumstances the Council is precluded from considering the granting of permission for the development the subject of the application.*

2. *Having regard to the two-storey design of the proposed dwellings, and in the absence of compelling evidence to the contrary, it is considered that the proposed development would give rise to adverse overlooking, daylight and sunlight and overbearing impacts on adjoining properties, including No. 30 Irishtown Road, No. 8B and 8D The Square and the adjacent artisan cottages, St. Brendan’s Cottages. As such, the proposed development would constitute overdevelopment of this constrained site and would seriously injure the amenities and depreciate the value of property in the vicinity. The proposed development would, therefore, be contrary to the Z1 and Z2 zoning objectives for the site and the proper planning and sustainable development of the area.”*

Decision date: 02.09.2022.

4.2. **Setting**

- **No. 3 St. Brendan’s Cottages**

ABP-321233-24 (P.A. Ref. No. 4190/24): On appeal to the Board permission was **granted** for consists of amendments to the previously approved planning permission, Reg Ref No.3074/24. The proposed amendments consisted of an additional attic floor

level (15sqm) to the rear with partial pitch and flat roof over with additional roof light and all associated works. Decision date: 14.04.2025.

- **Site at rear of No. 28 Irishtown Road- 8D The Square.**

PL29S.248898 (P.A. Ref. No. Web1260/17): Permission was **granted** for a development consisting of the construction of house with courtyards and pedestrian access with rear garden, mono pitched and flat roofs and other minor works.

Decision date: 09.11.2017.

PL29S.246337 (P.A. Ref. No. Web1346/15): Permission was **refused** for a two-storey house. with car parking and all associated site works. The reasons and considerations read:

“Having regard to the pattern of development in the area including the proximity of residences on three sides, the board considered that the proposal represented a significant over development on a back lands site which would be seriously injurious to the amenities of nearby residents and of property in the vicinity by reason of overbearing and over shadowing. The board further considered that the proposals for vehicular access to the site would be injurious to the amenity of residents in the vicinity”.

Decision date: 04.08.2016.

5.0 Policy Context

5.1. Local

- 5.1.1. The appeal site is zoned ‘Sustainable Residential Neighbourhoods – Z1’ and ‘Residential Neighbourhoods (Conservation Area) – Z2’ in the Dublin City Development Plan, 2022-2028. The given objective for ‘Z1’ zoned lands is: *“to protect, provide and improve residential amenities”* and the given objective for ‘Z2’ lands is *‘to protect and / or improve the amenities of residential conservation areas’*.
- 5.1.2. Chapter 2 of the Development Plan sets out the core strategy.
- 5.1.3. Chapter 3 of the Development Plan deals with climate action.

- 5.1.4. Chapter 5 of the Development Plan deals with the matter of Quality Housing and Sustainable Neighbourhoods including policies and objectives for residential development, making good neighbourhoods and standards, respectively, should be consulted to inform any proposed residential development and Chapter 15 sets out in detail the development standards for residential developments.
- 5.1.5. Chapter 11 of the Development Plan sets out the policies and provisions relating to built heritage including but not limited to Conservation Areas and Archaeology.
- 5.1.6. Appendix 3 and 5 of the Development Plan provides additional residential standards that are relevant to the nature of the proposed development.
- 5.1.7. Volume 6 of the Development Plan deals with Appropriate Assessment and Natura Impact Reporting.

5.2. Regional

5.2.1. **Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy (RSES), 2019 to 2031.**

- 5.2.2. This strategy provides a framework for development at regional level. The RSES promotes the regeneration of our cities, towns, and villages by making better use of under-used land and buildings within the existing built-up urban footprint. It also supports the implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the region. The following regional policy objectives (RPOs) are considered relevant to this application:

RPO 3.2 – Promotes compact urban growth, a target of at least 50% of all new homes should be built within or contiguous to the existing built-up area of Dublin city.

RPO 4.3 - Supports the consolidation and re-intensification of infill / brownfield sites to provide high density and people intensive uses within the existing built-up area of Dublin City and suburbs.

Additionally, the site lies in the Dublin metropolitan area, where it is intended to deliver sustainable growth through the Dublin Metropolitan Area Strategic Plan (MASP), including brownfield and infill development, to achieve a target to 50% of all new homes within the built-up area of Dublin City and its suburbs.

5.3. National

- **Project Ireland 2040 - National Planning Framework (NPF)**, 2018-2040, is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040 and within this framework Dublin is identified as one of five cities to support significant population and employment growth.

National policy objectives (NPOs) for people, homes and communities are set out under chapter 6 of the NPF and include the following:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
 - NPO 4 promotes attractive, well-designed liveable communities.
 - NPO 11 presumption in favour of development in existing settlements subject to safeguards.
 - NPO 32 targets the delivery of 550,000 additional households by 2040.
 - NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- Housing for All – A New Housing Plan for Ireland, 2021.
 - Rebuilding Ireland – Action Plan for Housing and Homelessness, 2016.
 - Climate Action Plan, 2025.
 - National Sustainable Mobility Policy, 2022.
 - Places for People – the National Policy on Architecture, 2022.
 - Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, (2024).
 - Design Manual for Urban Roads and Streets (DMURS), 2019.
 - Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities.
 - Appropriate Assessment Guidelines for Planning Authorities.
 - Development Management Guidelines for Planning Authorities, 2007.

5.4. Natural Heritage Designations

- 5.4.1. None within the Zone of Influence; however, I note that the site is within c1km to the north west of Special Area of Conservation: South Dublin Bay SAC (Site Code: 000210) and Special Protection Areas: South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) respectively as the bird would fly.

5.5. EIA Screening

- 5.5.1. The Board is requested to refer to Form 1 and 2 attached below.
- 5.5.2. They set out that the proposed development is sub-threshold for Class 10(b)(i); Class 10(b)(iv); Class 14 and Class 15(b) of Planning Regulations, 2001, as amended. This is on the basis that the proposed development consists of the demolition of single storey shed structures on site with a given total floor area of 237m² and the construction of three dwelling units on a site area of 629m² which is below the mandatory threshold for EIA.
- 5.5.3. They conclude that having regards to the overall nature, extent, and scale of the proposed development and to the criteria set out in Schedule 7 of the Regulations that having carried out a preliminary examination of this project that there is no real likelihood of significant effects on the environment arising from the proposed development. Therefore, EIA, is not required in this instance.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The First Party grounds of appeal seek that the refusal of permission for Unit 2 of the proposed scheme is overturned and that Condition 6 (c) is omitted from the Planning Authority's decision notification. Their submission can be summarised as follows:

Revisions Proposed to Unit 2

- The appellant provides a revised layout of Unit 2 to a one-bedroom unit and the courtyard is retained as a planted feature courtyard enclosed on all sides.

- The revised Unit 2 would in their view be suitable for a single person, a couple through to for downsizing in a near city centre location with all local services. As such it would add to the mix of dwelling sizes within the proposed scheme.

Civil

- The Planning Authority was satisfied that they had sufficient title to make this application.

Site Setting

- The current road serving the site is sufficient for fire tender attendance and there are two fire hydrants in the immediate vicinity.
- No.s 5, 8, 13 and 16 St. Brendan's Cottages have been extended to two storey at the rear and some of the St. Brendan's Cottages backing onto the site have been covered entirely by development.
- The proposed scheme is abutted by residential developments permitted to the rear of dwellings off The Square.

Access

- Each dwelling would be served with one car parking spaces in compliance with Development Plan requirements.
- This proposal would not give rise to any loss of car parking spaces or additional parking demands at St. Brendan's Cottages.
- This development gives rise to no traffic hazards or road safety issues and would give replace commercial vehicles accessing the site which would result in safer road environment.

Amenity

- Ringsend Park is suitable for supervised and safe play.

Drainage

- The Planning Authority raised no drainage concerns.

6.1.2. The Third-Party Appeal in their submission to the Board seek that the proposed development is refused in its entirety including as amended to a two dwelling unit

scheme by the Planning Authority in their decision notification. It can be summarised as follows:

Over Development

- The scale of development proposed is not suitable for this location and, if permitted as proposed, would result in the overdevelopment of this constrained site.
- Single height dwelling units would be more appropriate.

Residential Amenity Impact

- The proposed development including as revised would give rise to adverse overlooking and overbearing impacts on adjoining properties in its vicinity.

Planning History

- A similar development to the rear of No. 28 Irishtown Road was refused under P.A. Ref. No. WEB1436/16. In this case the Planning Authority considered the proposed development would result in the overdevelopment of the site and would give rise to serious injury to existing residential amenities by reason of its overbearing impact. After this refusal permission was granted under P.A. Ref. No. WEB1260/17 for a single storey house.

Compliance with Development Plan

- This proposal does not comply with the Development Plans provisions for backland developments because of the serious injury it gives rise to.

Access

- Existing access is difficult and introducing additional access would make this situation worse as well as would give rise to an injurious impact for road users.

Civil

- There is a lack of clarity in relation to ownership of the site, in particular the two access points serving it.
- It is not supported that the two sites were acquired by applicant by adverse possession.

6.2. Applicant Response

6.2.1. The Applicants Response can be summarised as follows:

- Their appeal relates to the omission of Unit 2 and the amended sized entrances and therefore they are precluded from commenting on any other matters relating to Units 1 and 3.
- The Third Party's refer to applications that were not determined under the now applicable Development Plan.
- The Third Parties fail to clarify how this proposal does not comply with the Development Plan provisions for backland developments.
- The revisions to Unit 2 overcome the concerns of the Planning Authority in their determination of this current proposal. They also overcome the Boards previous concerns in relation to the previous similar application made on this site.
- Both access points serve and are in use to serve the existing commercial developments.
- The Third-Party concerns in relation to land ownership is without merit.

6.3. Planning Authority Response

6.3.1. The Planning Authority's response indicates that the observations of their Planning Officer have been sought, however, no further comments were received.

6.4. Observations

6.4.1. A Third-Party Observation was received from Margaret O'Riordan (09.12.2024). It can be summarised as follows:

- The refusal of Unit 2 as part of the Planning Authority's decision is supported.
- There is little difference between this proposal and the previous scheme refused by the Board.
- The Observers property would be adversely impacted if Unit 2 were to be permitted as it would adversely impact their limited amenity space upon which they are dependent for light to three rooms at the ground floor of their dwelling. This two-storey

unit adjoining their property would adversely impact daylight and sunlight to their property which would impact their daily living as well as would devalue their property value.

6.4.2. A Third-Party Observation was received from Christopher Barry (17.12.2024). It can be summarised as follows:

- The Board is sought to refuse permission.
- The amendments required under Condition No. 1 of the Planning Authority's notification to grant permission should be made available to adjoining residents.
- The first-floor courtyard of unit No. 1 should not be used as a terrace or balcony. Further concern is raised that the use of this courtyard would be difficult to enforce.
- The applicant intends to erect property on lands they do not own.
- A letter from real estate agent in relation to the sale of lands at No. 30 Irishtown Road is provided and it indicates that both entrances are in City Council ownership.

6.4.3. A joint Third-Party Observation was received from Paul Nagle & Genevieve MacKenzie; David Morris; and, Terry & Louise Finney (20.12.2024). The proposed development is objected to as lodged, as revised, and as permitted. It can be summarised as follows:

Planning Authority's Determination

- Their concerns to this development have not been considered by the Planning Authority nor by the developer.

Precedent

- Planning history of No. 8D The Square is considered relevant as it permitted a single storey dwelling unit.
- The setting of the site should inform any development on this site.

Residential Amenity Impact – Adjoining Properties

- The proposed houses are too close to the gables of 8A and 8B The Square. This will also result in access issues to soffits; fascia and gutters of the properties including drainage as well as service pipes. With this in turn adversely impact 8A and 8B The Square.

- The ventilation grills on the gable wall of 8A The Square will be restricted by the proximity of the proposed development to it.
- This development would adversely impact the established residential amenity of properties in its vicinity by way of overshadowing and overlooking.
- The glazed façade of Unit 3 would directly overlook 8B The Square.
- The proposed 6.685m wall and roof height adjoining 8A The Square would result in material diminishment of their private open space and interior living spaces from undue overshadowing as well as restriction of daylight.
- The proposed development would depreciate the value of properties in its vicinity.
- This development would endanger the health and safety of persons in adjoining properties.
- Unit 2 would give rise to undue overlooking on The Square properties.
- This development has the potential to cause the collapse of party walls.
- The proposed development would give rise to the same undue adverse impacts on properties in its vicinity as the previous scheme refused by the Board.
- The amenity impact that would arise on the adjoining 8A, 8B and 8C The Square would be contrary to the land use zoning objective for these 'Z1' zoned lands.

Adequacy of Information

- Concern is raised that the structure labelled 'Shed A' may contain asbestos and there may be asbestos in the rubble on this site.
- Three of the shed structures on site are located immediately upon the shared boundary with 8A and 8B The Square as well as the rear of adjoining St. Brendan's Cottages. There is a lack of clarity on how the adjoining properties would be protected, including collapse of shared boundary walls, during demolition and construction phase.

7.0 Assessment

7.1. Introduction

7.1.1. Having examined the application details and all other documentation on file, including all submissions received in relation to the appeal, having inspected the site, having regard to the planning history of the site and setting, together with having regard to all relevant local through to national policy provisions and guidance, I consider that the main issues in this appeal case are as follows:

- Civil Matters
- Principle of the Proposed Development
- Demolition, associated works and impacts
- Proposed residential scheme, associated works and impacts
- Amenity Impact – Other
- Other matters Arising

7.1.2. The matter of ‘Appropriate Assessment’ also requires examination.

7.2. Preliminary Comments

7.2.1. Prior to commencing the main assessment, I note to the Board that the Third-Party Observers raise concern that the Planning Authority have had inadequate regards to the matters raised to them in their submissions. This I note is also a shared by the Third-Party appellant in this case.

7.2.2. On this point, I note that it is not a requirement under planning legislation for an applicant to engage in consultation with property owners in the vicinity of a site as part of the planning application process. In relation to the Planning Authority’s handling of the determination of this planning application I note that the Board does not have an ombudsman role in their remit of this appeal case.

7.2.3. For clarity, I also note that the Boards remit in this appeal case is the “*de novo*” consideration of the proposed development.

7.2.4. That is to say that the Board considers the proposal having regard to the same planning matters to which a Planning Authority is required to have regard when deciding on a planning application in the first instance. For example, this includes

consideration of all pertinent matters previously noted as well as including inter departmental reports, through to any revised details accompanying appeal submissions.

- 7.2.5. On this point I also note that the First Party Appellant in their response to the grounds of the Third-Party Appeal consider that the Third Party have raised matters that are outside of the scope of this appeal. They contend that the Boards remit is confined to making a determination on the Planning Authority's omission of Unit 2 and Condition No. 6(c) which I note relates to the restriction of width of entrances serving the dwelling units from its decision notification. In their appeal submission to the Board they request that the Board confines its determination to these two matters only.
- 7.2.6. In relation to this particular procedural concern for clarity I note that this appeal case is subject to two separate valid appeals. One of which is made by the First Party who is the applicant for the subject planning application and the grounds of their appeal submission is set out under Section 6 of this report above. The other is made by a Third Party whose grounds of appeal are also set out under Section 6 of the report above and they have participated in the public consultation phase of the Planning Authority's determination of this subject planning application by way of lodging a valid observation.
- 7.2.7. Both of the appellants have raised planning relating issues in relation to the proposed development and the Planning Authority's determination of it. Their considerations on the proposed development have opposing points of view in relation to the merits of the proposed development as lodged through to as amended.
- 7.2.8. Additionally, the Board received three separate valid Third-Party Observations raising a number of planning related issues with their core issues overlapping with the Third-Party Appellant in this appeal case. Against this context it is my considered opinion that is appropriate and reasonable for the Board to consider this appeal case *de novo* in an accordance with relevant planning legislative provisions.
- 7.2.9. Secondly, I note to the Board that the proposed development as lodged was subject to modest amendments to the proposed scheme during its determination by the Planning Authority. The amendments arose from the applicant's further information response to the Planning Authority's further information request. I note to the Board that these amendments resulted in modest residential qualitative amenity for future

occupants of the proposed scheme were it to be granted including improved flood risk measures through to confirming that adequate bicycle parking would be provided, and that each dwelling unit would be served by a maximum of one car parking space. Therefore, my assessment below is based on the proposed development as revised by the applicant's further information response received by the Planning Authority on the 9th day of October, 2024, as this allows for a more informed decision to be made.

- 7.2.10. Thirdly, I note to the Board that the First Party Appeal includes with their submission revisions to the apartment unit labelled 'Unit 2'. The purpose of this amendment is to maintain this unit but internally to revise it to being a one-bedroom unit only. The single two bed space bedroom is located on a mezzanine level that would be served by a rear facade that is at ground and first floor level finished with clear glazing together with this glazing also allowing for light penetration to a double height void over part of the ground floor living space. The remainder of the first-floor level is indicated as being comprised of a dressing room storage of over 13m² and a bathroom. Of note the dressing room storage area is not indicated as being served by any exterior windows nor are any amendments shown that any roof lights to provide it with daylight penetration and ventilation.
- 7.2.11. In relation to the amendments provided with the First Party Appeal I consider that this is not an uncommon practice particularly in circumstances where such an appellant seeks to address concerns of the Planning Authority in relation to some aspect of the proposed development.
- 7.2.12. In this case its purpose is overcome the Planning Authority's concerns in relation to this apartment unit which was omitted as part of their split decision notification. I am satisfied that the amendments provided by the First Party Appellant are minor in their nature, scale, and extent. Further, I am satisfied that as such they do not give rise to any substantive or material consideration for Third Parties, with surrounding adjoining and neighbouring properties being active parties in this appeal case. Therefore, they have had the opportunity to comment on these amendments.
- 7.2.13. In this case I have no objection to the consideration of these amendments as part of the de novo consideration of the proposed development against the proper planning and sustainable development of the area.

7.2.14. My third comment relates to the precedent cases referred to by the Parties in this appeal case. Outside of the recently decided appeal case ABP-315876-23 I am of the view that though the cases referred to in general relate to backland and infill developments, the site and setting constraints through to the nature of the development are not the same, with local through to national planning provisions as well as guidance having evolved in the interim. Moreover, I consider that the subject application / appeal should be considered on its own merits and on a site-specific basis, having regard to current relevant local through to national planning policy, guidance, and other relevant planning considerations.

7.3. Civil Matters

7.3.1. The Third Parties in this appeal case raise concern that the applicant does not have full legal title for the entire red line area of the site and this application is not accompanied by consent that is contended to not be in their ownership.

7.3.2. In relation to the landownership concerns the Third Parties raise concern that the two parcels of land located between the side boundaries of No.s 6 and 7 St. Brendan's Cottages as well as the land located between No. 16 St. Brendan's Cottages and the boundary of Ringsend's Park are not in the applicants legal interest, with these lands falling outside of the land folio of No. 30 Irishtown Road (R802) purchased by them. Since the First Party purchased No. 30 Irishtown Road it is further contended that these two land parcels have not been purchased from Dublin City Council who are purported to be the owners nor have the applicants become the legal owner of these lands by way of adverse possession.

7.3.3. The First Party contends that they are in full ownership of the site and have therefore sufficient information to make this application. They note that the Planning Authority in their validation of this planning application and the Board in their consideration of this issue in appeal case ABP-315876-23 were satisfied that this was the case. They also indicate that since their purchase of No. 30 Irishtown Road in December 2021 that they have adverse possession over the two parcels of land over which there was a right of way which provided access for the collection of buildings and spaces within the red line area of the site which are purported to be in commercial use.

7.3.4. On this matter I note that the Planning Authority's Planning Officer report noted that the previous application relating to the subject site was subject to a First Party appeal

to the Board (Note: ABP-315876-23/P.A. Ref. No. 5282/22). This appeal case sought that the Planning Authority's decision to refuse permission for the demolition of three vacant shed units and the construction of three houses (after further information revisions) together with associated work be overturned. They noted that the Planning Authority's first given reason for refusal related to their concerns that the application had been made by a person who had not demonstrated sufficient legal estate or interest to enable the proposed works to be carried out. This reason for refusal concluded that in these circumstances the Council is precluded from considering the granting of permission for the development the subject of the application. However, they noted that the Board did not conclude that this was the case in their assessment of appeal case ABP-315876-23 and they therefore considered that this application raised no change in ownership circumstance in relation to the subject site.

7.3.5. I note that the Boards inspector in their assessment of appeal case ABP-315876-23 having reviewed a report titled: 'Legal Ownership' which was accompanying the appeal submission considered that the information as set out in it was "evidently persuasive" on this matter. On this point the Inspector referred to Appendix D of this document which I showed that a question was asked of the Chief Executive of City Council at the November 2020 City Council Meeting regarding the ownership of these parcels of land at St. Brendan's Cottage to which the Councils Chief Executive reply concluded that it was not possible for the Council to claim clear unencumbered title to the lands in question. The Boards Inspector was therefore satisfied that based on the evidence provided by the First Party in this appeal case, who I note are also the same First Party as in this appeal case now before the Board, suggests that the City Council may not own them. Though I note that the Boards Inspector did accept that the City Council did have some interest in the laneways as successor to Pembroke UDC.

7.3.6. With this being the case the Inspector accepted that there are issues relating to the title of the application lands and referred to Section 5.13 of the Development Management Guidelines, 2007, which deals with such circumstances. In particular they referred to the following sections of the said Guidelines which states that: "*the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act*

states, a person is not entitled solely by reason of a permission to carry out any development".

- 7.3.7. The Inspector concluded in a manner consistent with the said Guidelines that only where it is clear that the applicant does not have sufficient legal interest should permission be refused on that basis and a grant of permission for the proposed development is subject to the provisions of section 34(13) of the Act, referred to above. In other words, the developer must be certain under civil law that they have all rights in the land to execute a grant of permission.
- 7.3.8. This application which is now before the Board was validated by the Planning Authority. The documentation provided by the applicant includes a document titled 'Legal Ownership' with I note sets out similar information to that considered by the Board in the previous appeal case. In summary it indicates that the applicants have the benefit of adverse possession in respect to the laneways providing connection to St. Brendan's Cottages. It also suggests that these lands as part of the lands to the rear of No. 30 Irishtown Road have been conveyed, assigned, and transferred to the First Party. There is no evidence provided to support otherwise by the Third Parties or by the City Council. It would also appear that both parcels of land have historically provided access and egress to the public domain for the commercial use of the buildings and spaces to which the subject application relates.
- 7.3.9. There is no change in ownership circumstance of the red line area of the site since the Board made its determination of appeal case ABP-315876-23 in April, 2024, and I therefore consider that the provisions of Section 34(13) of the said Guidelines and Section 5.13 of the Development Management Guidelines, 2007, are still of relevance. I also consider that as a precaution any grant of permission for the development of this site should be accompanied by an advisory note setting out Section 34(13) of the Act. The provision of this advisory note would also be appropriate given the other civil concerns of interference, encroachment, oversailing through to structural integrity issues of Third-Party properties adjoining this site, which are raised by adjoining property owners in their submissions in relation to the proposed development. This is in a context where no written consent has been provided from any adjoining property owner consenting to any interference to their property as part of the proposed development and the documentation accompanying this planning application.

- 7.3.10. Third Parties also raise concerns that the proposed development given the proximity of the proposed dwelling units and associated works to their properties that it could give rise to structural stability issues. Including the boundaries that demarcate the subject lands for adjoining properties which I observed include sections of period stone walls. Further concerns are raised in relation to the lack of adequate separation between the proposed units and adjoining properties, in particular the adjoining property owners consider that the proximity is such that it would result in future maintenance issues through to would have the potential to obstruct features in their property such as grilles that require ventilation.
- 7.3.11. I consider these concerns are not unreasonable on the basis that it would appear for example that existing shed structures including 'Shed D' is shown in the accompanying drawings as oversailing onto the boundary between it and neighbouring building 8A The Square as well as its roof structure overhangs the boundary wall of No. 14 St. Brendan's Cottages. Through to the proposed three dwelling units building envelopes on their northern and southern sides have elevations that appear to in part adjoin the subject property boundary.
- 7.3.12. In conclusion, it is not uncommon in a constrained built-up area for buildings and structures to be built adjoining or in close proximity to Third Party properties. I therefore advise the Board given the backland infill irregularly shaped constrained parcel of land which this modest residential scheme relates that it would be reasonable and appropriate the advisory note recommended above. This would accord with relevant planning guidance on such matters and the fact that civil matters fall outside the remit of this planning appeal case.

7.4. Principle of Proposed Development

- 7.4.1. The proposed development sought under this application consists of the demolition of three shed structures as part of facilitating the construction of three two-storey two bedroom plus study units together with ancillary works and services. As discussed above, the applicant submitted their further information response to the Planning Authority on the 9th day of October, 2024, this did not give rise to any substantive changes to the proposed development sought under this application and as part of the First Party's Appeal submission they make internal amendments to Unit 2 so that it functions as a one-bedroom with study dwelling unit.

- 7.4.2. The site has a modest 629m² given area and with the main area of the site comprising of restricted in-depth rectangular plot with a south west and north east axis located to the rear of No.s 4 to 16 St. Brendan's Cottages and forming part of what was historically part of the rear plot associated with No. 30 Irishtown Road, with the site extending in a north easterly direction alongside the southern boundaries of No.s 8A to 8D The Square to where it terminates alongside the part solid and tall metal railed boundary of Ringsend Park. The site setting is one that could be described as forming part of backlands to the east of Irishtown Road, with these backlands having a predominantly a mature mainly period residential character but also one that has been subject to more recent and dense infill residential redevelopment of lands.
- 7.4.3. The site area located to the rear of St. Brendan's Cottages, No. 30 Irishtown Road lands, to the south The Square and located between the eastern side of No. 16 St. Brendan's Cottages and Ringsend are zoned '*Sustainable Residential Neighbourhoods – Zone Z1*' under the Development Plan, and subject to the land use zoning objective of protecting, providing and improving residential amenities (Note: Section 14.7.1). As such the general principle of residential development is deemed to be acceptable on such lands subject to safeguards including those that are set out under Chapter 5 of the Development Plan which deals with the policies and objectives for residential development, alongside having regard to the provisions set out under Section 15.13.3 of the Development Plan which deals with the matter of infill housing developments and Section 15.13.4 of the Development Plan which deals with the matter of backland housing developments. I also note that the 'Z1' land use zoning encompasses the entirety of The Square.
- 7.4.4. The site also includes a modest pocket of lands that is located between the side gables of No.s 6 and 7 St. Brendan's Cottages and is zoned '*Residential Neighbourhoods (Conservation Areas) – Zone Z2*' and are subject to the land use zoning objective of protecting and/or improving the amenities of residential conservation areas. The primary land use function of these zoned lands is also residential under the Development Plan, subject to safeguards. In relation to development this requires them to be consistent with the guiding principles of these lands which as provided for under Section 14.7.2 is to enhance the architectural quality and to protect the residential character of the area. I also note that this land use encompasses all of the properties that address the triangular green pocket of open space of St. Brendan's

Cottages as well as the adjoining Irishtown Road properties to the west as well as the eastern side of Irishtown Road to the immediate north and south of the junction serving St. Brendan's Cottages and this regional road.

- 7.4.5. Of further note the adjoining Ringsend Park is zoned 'Amenity/Open Space Lands/Green Network – Z9' under the Development Plan. As such while the primary land use function of the site and its immediate setting is residential the site is one that has a transitional character with the 'Z2' land use zoning extending to the south and the 'Z9' land use zoning extending to the east. On this point I note that Section 14.6 of the Development Plan indicates that in transitional zonal areas that it is important to avoid abrupt transitions in scale and land-use between zones. In dealing with development proposals in these contiguous transitional zone areas. It also indicates that it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones, which I consider in this case to be the built heritage amenity of the residential conservation area and the green infrastructure of Ringsend Park. In relation to Ringsend Park the site forms part of the western edge of the park where there is an abrupt transition between its open green predominantly active spaces and a pattern of single and two storey in character built forms which bound it as well as characterise the land between the park and Irishtown Road to the west.
- 7.4.6. In addition to the above, the applicant indicates that the site is presently in active commercial use. This did not appear to be the case but is likely to have been the case at some point in the past. The exact nature of the commercial use of the site is not expanded upon, however, they indicate that it generated larger vehicles into the St. Brendan's Cottages cul-de-sac and a greater intensity of traffic generation than the proposed development now sought once operational. Irrespective of the lack of clarity on the commercial land use of the site whether on-going or now abandoned such a land use does not reinforce the primary land use function of the site's 'Z1' and 'Z2' as provided for under the Development Plan.
- 7.4.7. Further, if so used, there is potential for commercial land uses to give rise to a variety of different nuisances and impacts on residential properties in its setting, including the example provided by the applicant. That is to say the type and volume of vehicles generated from the commercial use of the site into what is a modest in size and period in character cul-de-sac of artisan single and two storey terrace properties occupying

constrained sites. This modest cul-de-sac is not one that is not of a design or layout that is suitable for such a use nor is such a use one that positively reinforce its residential character. Through to the poor visual presentation of buildings, structures and spaces associated with the subject site when viewed from its residential conservation area streetscape scene alongside the unkempt nature of the site which includes poor quality as well as in poor condition buildings and associated structures when viewed as part of the collection of buildings and spaces that comprise the setting of this site when viewed from the public domain or in the context of appreciating its intrinsic built heritage surviving attributes.

- 7.4.8. Moreover, when visible from the adjoining public open space of Ringsend Park, what is visible in terms of buildings, structures and spaces are out of character with the pattern of residential development to the south, north and west of the site. On this point I note that the Core Strategy as set out under Chapter 2 of the Development Plan actively encourages and support the development of brownfield and vacant (Note: CSO10).
- 7.4.9. To this I note that Section 2.7.2 of the Development Plan on the matter of brownfield and infill land indicates that in a manner that accords with regional and national policy that the City Council places an emphasis on compact growth and supports the sustainable development of brownfield and infill lands, through consolidation to support the optimal use of the finite resource of land. Also, under Section 2.7.2 objective CSO7 of the Development Plan that the City Council will seek: *“to promote the delivery of residential development and compact growth”* with this including underutilised areas. It further sets out under Chapter 2 of the Development Plan that ‘Z1’ and ‘Z2’ form part of the lands that are zoned for residential uses with the plan seek during the Development Plan cycle to provide within the city approximately 49,175 residential units. This I note aligns with the regional and national planning context as provided for in an overview in Section 5 of the report above.
- 7.4.10. In terms of the principle of the proposed development I also the planning history of the site and its setting (Note: Section 4 of this report above). Of particular relevance is the Boards recent determination of appeal case ABP-315876-23 (P.A. Ref. No. 5282/22). This is on the basis that the Board determined this previous application on the reduced residential scheme of three units as revised by the applicants further information response.

- 7.4.11. This revised scheme in terms of the number of units, the overall design, built form through to layout is largely unchanged to that now presented under this application.
- 7.4.12. The main change between the two relates to the design of the second bedroom at first floor level and the courtyard. I consider that it is of note that the Board though refusing permission for the proposed development based on their residential amenity concerns for future occupants and adjoining residential properties otherwise accepted the general principle of residential redevelopment on this constrained brownfield, backland and infill lands, with the Boards considerations including the Dublin City Development Plan, 2022-2028, in their determination of this application.
- 7.4.13. In addition, I note that the Board determined an appeal case which related to the construction a single storey dwelling with front and rear courtyards and pedestrian access via right of way via No.s 8 A, 8B, and 8C The Square to Ropewalk Place under PL29S.248898 (P.A. WEB 1260/17). The site to which this appeal case related bounds the northern boundary of the site towards its western end. In this case the Board granted permission, with their given reasons and considerations considering that the infill nature of the site was under-utilised, and they were satisfied that the proposed development subject to conditions would not seriously injure the residential amenities of properties in the vicinity or give rise to no other disamenity, concluding that it would accord with the proper planning and sustainable development of the area. Third Parties in this appeal case consider that the single storey built form of this permitted dwelling unit which I note has been subsequent to being granted constructed and is now occupied is an appropriate height for any insertions to the rear of St. Brendan's Cottage's. This is on the basis of their single storey original built form.
- 7.4.14. However, since this application was made local through to national planning provisions and guidance have changed. The changes have not only included two successive Development Plans but also at national level the introduction of further Section 28 Ministerial guidance documents including for example the Sustainable and Compact Settlements Guidelines for Planning Authorities which have provided for greater flexibility in this type of site context, a reduced lateral separation distances between opposing first floor windows through to advocate higher density developments at this type of location. Additionally, the Building Height Guidelines also sets out that greater density can be achieved in this type of location by way of taller buildings with the proposed two storey built forms being of a height that is not dissimilar to that of the

two storey more modest period artisan dwellings that front onto St. Brendan's Cottage's residential conservation area streetscape scene.

7.4.15. In relation to the pattern of development in this setting the proposed development is in general consistent with the constrained nature of traditional to more modern single and two storey residential built forms which characterise its setting through to the pattern of more compact, consolidated and more efficient use of zoned serviced accessible lands in this city neighbourhood.

7.4.16. Conclusion: Having regards to the above I am satisfied that the general principal of the proposed development is acceptable, subject to safeguards. I therefore propose examine in more detail the components of the proposed development sought under this application and their compliance with relevant planning provisions as well as guidance.

7.5. Demolition, associated works and impacts.

7.5.1. The subject site consists of a modest backland infill brownfield site which contains a three vacant single storey shed buildings with a given total floor area of 237m² for which demolition is sought. These buildings are situated on the main northern portion of the site which as said above are subject to the 'Z1' land use zoning under the Development Plan.

7.5.2. I am cognisant that the current Development Plan whilst seeking the re-use of existing structures where practical as part of the climate measures it contains. Notwithstanding, I consider that the shed buildings as well as the structures to be removed from the site as part of facilitating the proposed residential redevelopment of these lands appear to have no current functional use and are of no architectural or other merit. Nor could they be reasonably be structures that would lend themselves for deep retrofit and/or extension in floor area to accommodate residential repurposing of these lands in a manner that would maximise this site's latent potential as residential zoned serviced accessible lands.

7.5.3. Further, the proposed development does not appear to include the removal of the stone boundary walls. This I consider is welcome given that they are the only built feature of merit on this site and their inclusion as part of the redevelopment of these lands would facilitate and carry through this site's sense of place as part of a historic Dublin city neighbourhood against a design which seeks to provide an architectural

response through use of external palette of materials which are of their time. These walls are vulnerable to the nature, extent and scale of change sought under this application with the constrained site through to the juxtaposition of the existing buildings for which demolition is sought and proposed construction of the dwelling units which would immediately bound them having the potential to impact on their structural integrity and patina of age. This concern could be dealt with by seeking in writing clarity on the measures to be put in place during the demolition and construction phases, however, these walls do not form part of any Protected Structure though do form part of the visual setting of a residential conservation area.

- 7.5.4. Against this context I note that the Development Plan provides under Policy BHA9 that development that development affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect as well as enhance the character, appearance of the area and its setting, wherever possible. As such the loss of these period stone walls in my view would diminish this particular conservation area setting even though the stretches of stone walls where they survive do not form part of the public domain.
- 7.5.5. For clarity I do not consider that this is a new issue given the concerns raised by Third Parties in their submissions to the Board.
- 7.5.6. Having regard to the planning history of the site I note that the Board in their examination of the recent application on this site which also sought the demolition of existing structures on site raised no substantive concerns in relation to this component of the proposed development subject to safeguards. Additionally, the Planning Authority in their determination of this current application before the Board which as noted above is largely the same proposed development as that previously sought on this site, raised no concerns in relation to this component of the proposed development, subject to safeguards.
- 7.5.7. I also note that the Planning Authority in their determination of this appeal case raising no concerns in relation to this component of the proposed development, subject to standard safeguards.
- 7.5.8. I am also satisfied that subject to site and setting appropriate safeguards that the demolition component sought under this application is acceptable as it would unlock the latent potential of these zoned in proximity to services, infrastructure through to

amenities underutilised/vacant lands within the built-up area of Dublin's inner city, in a manner that would be consistent with Section 5.1 of the Development Plan which recognises that regional and national policy reinforces the need for 'healthy placemaking' and the delivery of well-designed, affordable, adaptable, infill and brownfield development close to existing services and facilities.

- 7.5.9. Chapter 5 of the Development Plan also promotes compact growth and sustainable densities through the consolidation and intensification of infill and brownfield lands in the city as well as supports the development of underutilised lands in the city. Through to Section 15.5.1 of the Development Plan also recognises that brownfield sites, often contain derelict vacant buildings which are underutilised and that such sites can regenerate as well as rejuvenate the city through redevelopment.
- 7.5.10. To this I note that within the immediate and wider setting of the site there is a pattern of intensification of brownfield, backland, and infill sites on residentially zoned land within this built-up area of Dublin city. This includes the adjoining single to two storey dwelling units of No.s 8A, 8B, 8C and 8D The Square. With these properties including parts of the former rear gardens of No.s 26 and 28 Irishtown Road and relating to more than one planning application. There is also the Kennedy Court two storey residential scheme that is accessed via the modest cul-de-sac St. Brendan's Villas that is located at the south easternmost end of St. Brendan's Cottages public domain.
- 7.5.11. In relation to nuisances that would arise during the demolition and site clearance phase of the proposed development are modest in their single storey built form and overall construction methodology. They have a given total floor area of 237m². Their demolition, subject to safeguards, as said aligns with local through to national planning policy in relation to brownfield infill zoned serviced and accessible lands within the built-up area of a city. They also visually do not positively contribute where visible from the public through to private domain of their setting or reflect a land use that positively contributes as well as reinforces the zoning objectives of these transitional zoned lands.
- 7.5.12. There are some natural features on site, however, they do not appear to be of any significant biodiversity value or other merit despite being located on a site that adjoins 'Z9' zoned lands. The proposed development subject to agreement of a landscaping

scheme has the potential to give rise to a more qualitative outcome that would improve the biodiversity of the site's setting.

- 7.5.13. The demolition and site clearance phases would give rise to nuisances, if permitted, particularly to the established residential amenities of properties within what is a highly constrained site that is bound by several residential properties as well as in the immediate vicinity there is a tight grain pattern of residential development.
- 7.5.14. During this phase, the nuisances generated would for example include noise, dust, vibrations, waste through to additional traffic generation and potential for vehicle overspilling onto the public domain of St. Brendan's Cottages. With residents of St. Brendan's Cottages being reliant on its public domain for parking. It would also generate additional traffic movements onto its junction with Irishtown Road. This junction is a busy junction in terms of the flow of traffic in a north south direction particularly during peak hours, with this road being a regional road and at a point where St. Brendan's junction onto Irishtown Road is not signalised as well as there are on-street car parking provision to the east and west of it.
- 7.5.15. Despite this I consider that the nuisances that would arise during this phase of the proposed development would be of a temporary nature and the developer would be required to be carry out these works in compliance with standard codes of practice. It is also standard planning practice to include conditions that seek to minimise such impacts in the event of a grant of permission. Such conditions range from the agreement of demolition and construction plans, waste management, hours of construction, construction traffic management plans, noise controls through to keeping the public roads clean from debris and repairing where damaged. I note that such safeguards are included by the Planning Authority in the suite of conditions relating to permission of Units 1 and 3 together with their associated works.
- 7.5.16. Should the Board be minded to grant permission I recommend that it include similar conditions in the interests of residential amenity of properties in the vicinity of the proposed development through to ensuring a satisfactory standard of development.
- 7.5.17. Conclusion: Subject to such safeguards, I am satisfied that the proposed demolition, removal of structures through to site clearance component of the proposed development is acceptable, subject to safeguards, and is consistent with local, regional through to national planning provisions which seek the more efficient use of

brownfield zoned lands, including residential development which is the principal function of the site and its setting.

7.6. Proposed residential scheme, associated works and impacts.

- 7.6.1. The portion of the site for which the construction of three dwelling units is proposed under this application alongside the parcel of land located between No. 16 St. Brendan's Cottages and the eastern boundary of the site that adjoins Ringsend Park is zoned objective 'Z1' under the Development Plan whose land use zoning objective is: *"to protect, provide and improve residential amenities"*. This land use zoning objective encompasses most of the site area and extends onto the adjoining lands the adjoining properties of The Square and No. 30 Irishtown Road. Also, the lands within the red line area of the site located between No.s 6 and 7 St. Brendan's Cottages are subject to a different land use zone under the Development Plan, i.e. 'Z2'. As discussed above the land use objective for these lands seek to protect and/or improve the amenities of residential conservation areas. Within the visual context of the site this land use zoning objective extends to encompass the period artisan single and two storey residential properties of St. Brendan's Cottages. Further, as discussed, the site setting is backland residential in character location that has been subject to more compact and denser residential use including the adjoining No.s 8A to 8D The Square and neighbouring Kennedy Court.
- 7.6.2. The proposed development presents an opportunity for the redevelopment of these lands which are purported to have an established commercial use with a land use that is consistent with the residential function of its immediate setting as well as is a type of development that is consistent with local through to national planning provisions subject to safeguards (See: Section 5 and 7.4 of the report above). However, the Third Parties in this appeal case raise concerns that the proposed development would give rise to overdevelopment of the site and inappropriate in height buildings that would diminish the amenities of its setting in a manner that would be inconsistent with the character and pattern of development of the area.
- 7.6.3. In relation to these concerns I note that the site coverage and indicative plot ratio is not inconsistent with that provided for in the Development Plan for this type of location. On this point I note that Table 2 of Appendix 3 of the Development Plan sets out in central areas a plot ratio of 2.5-3.0 and site coverage of 60-90%. It further sets out in

relation to Conservation Area's a plot ratio of 1.5-2.0 and a site coverage of 45-50%. With this proposal having a given plot ratio of 1:0.54 and the site coverage is 37.4%. It therefore does not exceed the indicative plot ratio and site coverage for either of these types of locations within the city.

7.6.4. I also consider that though this development is below either indicative plot ratio and site coverage provided for under Table 2 of Appendix 3 of the Development Plan; notwithstanding, it is of a density that reflects the constrained nature of this backland site, its irregular shape through to its relationship with adjoining residential properties that are in part characterised by their modest plots as well as modest overall built forms with generally little in the way of private amenity open space to provide a buffer between them and neighbouring properties.

7.6.5. I further note that the Planning Authority's Planning Officer did not raise any substantive issue regarding the plot ratio and site coverage of the proposed development though did consider that having considered the proposed development in particular Unit 2 against the standard of future amenities for occupants and the impact of this dwelling unit on properties in its vicinity that the three units as proposed would give rise to overdevelopment of the site. The Board in their determination of the revised scheme under ABP-321233 reached similar conclusions, with as said there being little in the way of difference between this current application and that determined by the Board on this recently determined appeal case.

7.6.6. The concerns of the Planning Authority are reflected in its decision notification which as set out under Section 3.1 above omits Unit 2 alongside includes a number of changes to the proposed development which also includes the requirements of Condition No. 6(c) which restricts the width of any entrance for Unit 1 and Unit 3 to a maximum width of 3m. The First Party as said seek the Board omit these requirements whereas most of the Third Party's consider that the omission of Unit 2 does not address their amenity concerns and generally raising no substantive concerns in terms of the entrance details outside of the traffic generated by the proposed development. I therefore propose to consider these matters as well as the compliance of the proposed development with relevant planning provisions and guidance under the subheadings below:

7.6.7. Backland Development:

Section 15.13.4 of the Development Plan defines backland housing as relating to land that lies to the rear of an existing property or building line. As described above this site which is bound by the rear of No.s 4 to 16 St. Brendan's Cottages; No.s 8A to 8D The Square and No. 30 Irishtown Road conforms with this definition. This section of the Development Plan also indicates that the City Council will allow for the provision of comprehensive backland development where the opportunity exists.

In relation to the potential for achieving comprehensive backland development at this location there are no other sites suitable for amalgamating with this site as part of providing a larger comprehensive redevelopment of lands at this location with the site being bound by developed residential lands with no suitable and of any quantity underutilised/vacant lands adjoining it.

I therefore consider that the residential redevelopment of the site area would not give rise to piecemeal and uncoordinated development of this backland, infill, zoned, serviced and accessible lands. Instead, it would be consistent with the pattern of brownfield and infill development that has occurred in the immediate vicinity of St. Brendan's Cottages which as discussed above include The Square and Kennedy Court.

Section 15.13.4 of the Development Plan indicates that backland housing sites require more innovation and reinterpretation to enable their redevelopment. Alongside it indicates that consideration will be had in the assessment of such applications to access; servicing as well as the interrelationship between overlooking, privacy, aspect, and daylight/sunlight as part of the acceptability of new development in backland conditions. It further indicates that this type of applications will be assessed on a case-by-case basis and that the City Council may permit relaxation of some standards to promote densification as well as urban consolidation in specific areas. This however is subject to the proviso that the applicant demonstrates high quality urban design and a comprehensive understanding of the site and its specific constraints as part of justifying the proposal.

I note that the overall design, built form, height, massing, volume through to positioning of the scheme's three dwelling units, which I note had been revised from four dwelling units to three by way of the Planning Authority's further information in the previous

scheme determined on this site has essentially been maintained unchanged under this current proposal now before the Board.

On this point I note that the changes that are present in relation to the proposed units is the relocation of a window to serve bedroom 2 in Unit 1 and 2, with these windows facing onto a courtyard. This change appears to be in response to the Boards given reasons and considerations for refusal for the previous scheme under appeal case ABP-315786-23. These I have set out under Section 4 of this report above.

In summary the Board in their given reasons and consideration for refusal of the previous revised three dwelling units on the site raised concerns that these bedrooms having regards to the height of the privacy screen required to block any potential overlooking of properties in its vicinity would result in a poor and unacceptable outlook for the future occupants of these dwellings.

The Planning Authority having examined the proposed development as lodged considered that the proposal remained largely unchanged and that bedroom 2 of Units 1 and 2 required revisiting as part of achieving more qualitative residential amenities for future occupiers as well as to overcome the issue of overlooking arising from these rooms. This I note was one of the matters raised by the Planning Authority in their further information request (Note: Item 1) and I consider that the Board would have raised similar concerns to the scheme as lodged for the same amenity reasons.

The Planning Authority's further information request under Item 1 therefore sought the design of Units 1 and 2 to be revisited and requested the applicant to consider the redesign of these units to one bedroom or to provide a maximum of two units on the site omitting Unit 2.

The applicants further information response decided not to make either of these changes. Instead, they provided artistic impression sketches of the future residential amenity of these units.

While the Planning Authority considered that these sketches were welcome, they considered that the applicant had failed to provide a redesign of the scheme or consider the omission of unit as part of addressing their amenity concerns. They again raised particular concerns in relation to permitting Unit 2. This I note was based on their view that it would result in poor quality outlook and residential amenity for future occupants of this unit.

They also raised further concerns that together with the confined nature of the site Unit 2 its courtyard would be enclosed by the gable wall of No. 8B 'The Square' and that the omission of this unit would give rise to a greater quantum as well as quality of private open space amenity for future occupants.

In relation to Unit 1 the Planning Authority considered it appropriate that the bedroom of concern at first floor level should provide adequate levels of amenity, however, it was considered that the courtyard use should be restricted for maintenance purposes only.

These considerations of the Planning Authority's Planning Officer are reflected in the split decision notification for this proposed development (See: Section 3.1.1 of the report above). This refused permission for Unit 2, its entrance bicycle parking and bin storage areas under Condition No. 3(a) in the interest of visual amenity, residential amenity, proper planning and sustainable development of the area. This condition is further supported by Schedule 2 of the decision notification which reasoned that the design of this unit and in the absence of a compelling case to the contrary would give rise to a poor residential amenity for the future occupiers including the adjacent artisan cottages of St. Brendan's Cottages. It also considers that it would give rise to overdevelopment of the site and would seriously injure the residential amenities as well as would depreciate the value of property in its vicinity. For these reasons it was considered that this component of the proposed development was contrary to the zoning objectives for the site as well as in turn the proper planning and sustainable development of the area.

I consider that these specific concerns of the Planning Authority are reasonable given the constrained nature of this site and the relationship of the proposed dwelling units to neighbouring residential properties through to ensuring that qualitative residential amenities are achieved for future occupants of the proposed scheme.

Alongside I note that the considerations set out for backland developments under Section 15.13.4 of the Development Plan include providing adequate separation distances to ensure that proposed dwelling units do not impact negatively on adjoining residential amenity and that the amenity of the proposed units are qualitative.

Against this context I consider that the omission of Unit 2 as required under the Planning Authority's split decision notification not only gives rise to positive

improvements for Unit 1 and Unit 3 within the scheme as these units would benefit from being served by a more qualitative standard of outdoor amenity space in terms of not only quantitative private open space but in terms of quality private open space to serve future occupants. It would also result in less overshadowing and overlooking arising from this scheme on properties adjoining this backland redevelopment site, with many of the adjoining properties having limited if any rear private amenity space and limited lateral separation distance between this proposed unit.

In particular, I consider it would result in less undue overshadowing and overlooking of the infill backland properties bounding the northern boundary of the site, particularly when regard is had to the relationship between the upper floor level glazed western elevation and the two-storey built form with adjoining properties. However, the omission of Unit 2 in the absence of any privacy measures for the elevational treatment of the upper first floor level of Units 1 and 2 is not in my view consistent with the flexibility provided for under SPPR 1 of the Compact Settlement Guidelines in terms of 16m separation distance between opposing first floor level windows. Alongside there is still a residential amenity concern arising from the limited separation distance between first floor level windows of properties adjoining the site where there is a privacy and overlooking issue for proposed as well as existing units.

Moreover, whilst the proposed units are described in the accompanying documentation as being two bedroom with study, I consider that this is misleading given that the study rooms within all of the three units have a floor area of 13.4m² (Note: the study rooms are shown as having a width of 3.2m and depth of 4.2m) and are served by window openings that would provide daylight as well as natural ventilation.

Though this concern does not give rise to a quantitative private open space amenity for future occupants on the basis that the private amenity spaces proposed for the units, with Unit 1 and 2 having a provision of 53.5m² and Unit 3 having a provision of 50m² which exceeds the requirements set out under SPPR 2 of the Compact Settlement Guidelines. Notwithstanding I consider that these study rooms are in their spatial dimensions through to containing window openings suitable for accommodating two bedspaces. Whereas the 2nd bedroom of Unit 2 would have a poor outlook with its courtyard adjoining the first-floor elevation of Unit 8 The Square. With this also space having a northerly aspect and would likely provide poor natural ventilation as well as daylight/sunlight penetration to this bedroom.

The amendments included with the First Party Appellants appeal submission proposes changes to the 2nd bedroom of Unit 2 into a proposed dressing room/storage area. Given the spatial dimensions of this room (Note: floor area of 12.6m² based on its width of 3.5m and depth of 3.6m) despite having no outward looking window openings the dressing room would still bound the glazed courtyard discussed above. I would consider its use of this room as a dressing room/storage would be difficult to enforce and if used as a bedroom by future occupants would not give rise to a qualitative standard of residential amenity.

I also consider that this modest amendment to the proposed residential scheme would also not resolve the issue of the varying degrees of adverse overshadowing and overlooking that arise for the adjoining The Square properties. Further, the western first floor level of Unit 2 would give rise to undue overlooking and visual overbearance of adjoining properties of St. Brendan's Cottages to the south west despite its modest two storey height (Note: c6.685m), which occupy modest plots that together with their rear elevations are vulnerable to be overlooked.

On this last point I note that their original built form was single storey with gable shaped roofs over of limited height and with limited rear private amenity space. Since their construction many of these properties have been subject to alterations and additions which have included dormer type rear extensions through to further additions extending them into their modest rear yard areas.

With Unit 2 having a maximum width of 14.4m on its northern side and 10.1m on its southern side alongside its main footprint extends the 6.145m of the site with no lateral separation distance between it and adjoining properties to the north and south of it.

Having regards to the above I generally concur with the requirements set out under Condition No. 3 of the Planning Authority's split decision notification. These requirements include the splitting of the remaining open space to the rear of Unit 1 and Unit 3. This particular requirement provides for quantitative and qualitative improvements to the open space provision for future occupants at grade that is less impacted from overshadowing from properties to the north and west of these units. Further it would allow for more privacy to Unit 1 given that the arrangement of spaces serving Unit 2 includes a restricted pedestrian access way that runs alongside part of Unit 1's proposed subdivision. It would also result in the need for less waste storage

which I note in the case of Units 1 and 2 are positioned in closer proximity to the rear elevations and rear modest amenity spaces of No.s 6 and & St. Brendan's Cottages.

Furthermore, I consider that the omission of one unit would result in less traffic generation and people intensive uses in proximity to the modest period properties of St. Brendan's Cottages which are in part afforded a level of protection for the built heritage merit by way of their designation as forming part of a Residential Conservation Area.

I also note the requirements of Condition No. 4 of the grant of permission of the Planning Authority's split decision notification (Note: Refer to Section 3.1.1 of this report above). This condition restricts the use of the first-floor courtyard of Unit 1 as a terrace or balcony area. I consider that this requirement is reasonable in the interest of safeguarding the residential amenity of properties in the immediate vicinity of this unit given as said their vulnerability to being overlooked. In this context, I consider if the first-floor courtyard of Unit 1 were used by its future occupants as an extension of their outdoor amenity space it would result in undue overlooking nuisance for adjoining properties.

To this I consider that additional design measures are required for Unit 1 and 3 to address the issue of undue overlooking arising from Units 1 and 3's western (rear) elevation. The positioning of these transparently glazed first floor levels relative to the rear of adjoining properties elevations and private amenity space is such that it would not give rise to a reasonable balance between the proposed residential amenity of future occupants of these dwellings and the established residential amenity of adjoining properties in a manner that is consistent with the protection provided under land use zoning objectives for 'Z1' and 'Z2' of the Development Plan. As well as it would be contrary to the considerations set out under Section 15.13.4 of the Development Plan for backland housing developments.

In order for the proposed development to be consistent with these local planning provisions I consider that the first-floor elevational treatment of Units 1 and 3 require revisions so that the level overlooking that arises would not be exceptional for its context. Further to this a suitably worded condition should also be imposed to restrict the use of any flat roof/courtyards to maintenance purposes only so that they are not used to provide additional amenity open space for future occupants above ground floor

level given the sensitivity of adjoining properties to overlooking and other nuisances that would arise from such use.

Conclusion: I concur with the Planning Authority that Unit 2 does not result in a reasonable balance of providing residential amenities and protecting residential amenities in this constrained as well as highly sensitive in terms of residential amenity to change site. To this I further consider that the Development Plan requirements for Infill Development as provided for under Section 15.13.3 whilst supporting the redevelopment of vacant, derelict and under-utilised land seeks that this is done in a manner that achieves an appropriate balance between providing qualitative residential amenity for its future occupants and the protection of the established residential amenity of properties in its vicinity. I therefore consider that subject to the safeguards recommended above that the proposed development would be consistent with Section 15.13.4 and Section 15.13.3 of the Development Plan in a manner that accords with the land use zoning objectives for this site context.

7.6.8. Height:

The proposed two storey height is one that is not inconsistent with the pattern of development in the vicinity, which as noted in the assessment above includes the adjoining 8D The Square whilst single storey in its height No.s 8A, 8B and 8C The Square which bound the northern boundary of the site have a more substantial height to the proposed units sought under this application. It is also a graduated height relative to the single storey and dormer additions of St. Brendan's Cottages to the south though I recognise that these forming part of a residential conservation area are more sensitive to change.

On this point I note for example purposes that in the immediate setting context of Unit 3 (Note: c6.6m ridge height), the adjoining property of 8A The Square to the north ridge height is 2.2m higher than the maximum height of Unit 3. Whereas relative to neighbouring property to the south, No.s 14 St. Brendan's Cottages original ridge height is 1.42m lower. Though I note that No. 14. St. Brendan's Cottages has at some point in the past been extended to the rear with this including a dormer attic extension which setback and raised its original ridge height by 0.71m. As such there is a graduated single, dormer through to two storey height relative to the site setting of Unit 2 with the neighbouring properties to the south west of it having varying lower dormer

and single storey built forms. Additionally, when viewed from the streetscape scene towards where Unit 3 would be positioned the historic ridge line of St. Brendan's Cottage which was once coherent has been broken by the addition of dormer extensions through to Unit 8A The Square protrudes in its height above the now staggered ridge height of St. Brendan's Cottages when viewed from the public domain.

Within the context of No.s 4 to 16 St. Brendan's Cottages, which are comprised of two period artisan originally single storey and once highly coherent terrace groups, form part of streetscape scene that also includes modest two storey period artisan mainly terrace brick buildings with gable shaped roofs over. Additionally accessing onto St. Brendan's Cottages public domain via the two storey St. Brendan's Villa terrace group is the two-storey backland infill site of Kennedy Court.

Against this context I accept that Unit 1 would be visible from the public realm of St. Brendan's Cottage. Notwithstanding as a built insertion its two-storey height is modest and though its design is not traditional in its aesthetic. Alongside its palette of materials though including brick is more contemporary in its overall composition of its materials, treatments, and finishes. These subject to standard safeguards is unlikely to be at odds with a Residential Conservation Area setting. In time as its proposed landscaping matures views towards this unit would be visually soften and buffered by the L-shaped pocket of planting proposed alongside the side gable of No. 6 St. Brendan's Cottages.

Additionally, the structures demarcating the semi-private and private domains of Unit 1 and Unit 2 as well as associated features would no longer be required. In particular the loss of the solid boundary treatment and the two bin storage provisions centrally positioned between No.s 6 and 7 St. Brendan's Cottages provides an opportunity for a more visually sensitive and positive contribution to the residential conservation area streetscape scene of St. Brendan's Cottages.

Whilst my assessment above recommends the omission of Unit 2 for similar reasons as set out by the Planning Authority in their split decision notification it would occupy a landlocked position; notwithstanding as a precaution I note that its ridge height would be higher than that of No.s 7 to 16 St. Brendan's and though occupying a backland position views of its upper floor level would be modest and localised. As such I consider it would not give rise to any undue adverse visual amenity impacts where

visible from the public domain given the staggered and graduating single to two storey heights that characterise the site setting, including as appreciated from the residential conservation area streetscape scene of St. Brendan's Cottages.

In terms of impact of Unit 1 I also note that relative to No. 8A The Square which is a modest single storey flat roof structure, I consider that this adjoining existing property forms part of a setting characterised as described above by single, dormer and two storey structures. In this context the provision of a new built insertion of c6.6m height bounding it, subject to safeguards, would not be out of context with the pattern of development in this setting.

However, I raise a concern that the two-storey height and relationship of this proposed unit relative to No. 8A The Square's modest courtyard has the potential to give rise to significant overshadowing of this properties private amenity space as well as any windows opening onto it. The omission of Unit 2 will allow for improved light penetration in a south easterly direction into this space alongside it provides a further opportunity for the repositioning and/or redesign of its first-floor level should the Board deem it necessary given that bedroom 2 of this unit still provides a poor outlook and future daylighting through natural ventilation amenity for future occupants, if permitted, as proposed.

In relation to Unit 3 similar concerns arise in relation to the first-floor level western elevation in terms of undue overlooking of properties in its vicinity. This unit would be visually buffered by an L-shaped pocket of landscaping as viewed from the public domain of St. Brendan's Cottages, St. Brendan's Villages, and the public domain of St. Brendan's Cottages. The omission of one of the car parking spaces as part of the omission of Unit 2 would accord with the maximum standards for car parking in this location as provided for in the Development Plan and would provide additional space for soft landscaping which would provide could provide additional visual buffering of the proposed development.

Conclusion: Having regards to the above while the general the height of the proposed units are acceptable given the site context; notwithstanding, the two storey nature of these units as proposed and as revised still gives rise to residential amenity concerns that require addressing as part of any grant of permission so that an appropriate balance is achieved between providing residential and protecting residential amenity

of existing properties in a matter that accords with the land use zoning of the site and its setting.

- 7.6.9. Parking: The proposed development, if permitted, would during its demolition and construction phase, give rise to additional traffic onto the modest cul-de-sac of St. Brendan's Cottage, where there is a heavy reliance from properties fronting onto it for on-street parking. This outside of the designated disabled parking bays occurs otherwise in an ad hoc manner along the roadside edge. The traffic generated during these phases of the proposed development would be temporary in nature and it is standard practice for this to be managed by a demolition and construction management plan which would seek written clarity and agreement of such matters.

During operational phase, the proposed development would not in my view place any additional burdens on the public domain by way of generating any significant additional car parking demands on the adjoining public road. On this point I note that the scheme as proposed includes the maximum car parking space standard for each of the dwelling units proposed, i.e. one parking space on the basis of its location on Map J and Section 4.0 and Table 2 of Appendix 5 of the Development Plan.

Additionally, Irishtown Road contains stops for a number of high frequency Dublin Bus Routes with the site being in walking distance of community, social, retail, amenities, and other synergistic land uses. I also note that within its city hinterland setting there is also a range of employment opportunities for future occupants through to there is a demand for additional housing stock.

Further the proposed development as revised now includes the required provision of bicycle parking spaces for each of the proposed units.

- 7.6.10. Services: On the matter of services I concur with the Planning Authority and their experts on such matters that subject to the bespoke flood risk measures set out in the applicants accompanying Flood Risk Assessment and subject to the requirement of agreeing more robust sustainable drainage systems that the proposed development would not give rise to any substantive surface through to foul water drainage issues. In terms of water supply I note that the Planning Authority raises no capacity concerns for this modest residential scheme on lands zoned with capacity for residential densification subject to safeguards. Further, no submission was received from Irish Water raising any potable water or foul water drainage concerns.

7.6.11. Conclusion: In conclusion, I consider that the proposed development subject to the safeguards indicated would comply with relevant planning provisions in a manner that accords with the proper planning and sustainable development of the area.

7.7. Amenity Impact – Other

7.7.1. I accept that the proposed development would if permitted change the context of the adjoining properties in its vicinity. This I have commented upon in the previous section where I considered that amendments were required to the scheme in order to achieve a more reasonable balance between the proposed dwelling units and the established residential amenity of properties in its vicinity. To this I also note that the Third Parties raise concerns in terms of the accuracy of the Daylight & Sunlight Study provided with this application and that the proposed development if permitted would seriously injure their established residential amenity by way of diminishment of daylight/sunlight and overshadowing of their properties. I also note that the design of the proposed dwellings is one that by way of the overall built form, with a modest two storey height, through to the placement of the units in a manner that seeks to correspond with the infill dwelling units of 8A to 8D The Square, as part of minimising these types of impacts.

7.7.2. Additionally, the lateral separation between the existing dwellings and proposed dwellings in terms of the general east west orientation/axis of the site corresponds with current lateral separation distances between opposing first floor windows.

7.7.3. Given that the restricted depth of the main portion of the site, the orientation of the site, the pattern of development within this setting I consider that a level of daylight through to overshadowing on 8A to 8D The Square is inevitable from the proposed scheme as proposed and as revised.

7.7.4. Notwithstanding, I am satisfied that the omission of Unit 2 overcomes the undue daylight, sunlight and overshadowing impact that arises to No.s 8b and 8D The Square in a manner that achieves an appropriate balance between the proposed development and the established residential amenities of properties in its vicinity. It also presents an opportunity for reconfiguration and positioning of Unit 1 and 3 including omitting or redesigning the first-floor level of Unit 1 so that its resulting daylight/sunlight diminishment to the adjoining No. 8D The Square is more qualitatively addressed.

- 7.7.5. On the matter of overlooking I consider that the western (rear) first floor level elevations of all Units if permitted have the potential to give rise to undue overlooking if unamended. This particular concern could be addressed by amended elevational treatment of these elevations. Additionally, the overlooking and associated nuisances that would arise from the courtyards of both Unit 1 and 3 could be addressed by restricting access onto the courtyard roofs for maintenance purposes only through to if deemed necessary by the Board redesign of any openings adjoining them so that they do not provide direct access onto these spaces.
- 7.7.6. On the matter of depreciation of property values I note that the Planning Authority's given reason for the refusal of Unit 2 includes that it would give rise to a depreciation of property values. This concern is also raised by Third Parties in their submissions to the Board. In relation to this concern, I note that the site forms part of the built-up area of Dublin's inner city that whilst having a mature residential character to the rear of Irishtown Road properties that align the eastern stretch at this location it is also a location that is residentially zoned, with the site being underutilised/vacant in its current condition.
- 7.7.7. Additionally, the site setting is one whereby there is an established pattern of backland and infill redevelopment of lands with examples of this cited in the assessment above.
- 7.7.8. Further, the period buildings and spaces within this setting have been subject to varying change by way of subdivisions, extensions, and the addition of ancillary structures, which have to varying degrees eroded spaces between properties that are not covered by structures.
- 7.7.9. I therefore consider that it is not unreasonable to expect a level of change within this site setting context given that developments of a residential nature are deemed to be permissible subject to safeguards in a manner that aligns with local, regional and national planning provisions as well as guidance support for more compact, consolidated, denser and people intensive uses on accessible serviced lands.
- 7.7.10. Conclusion: I am therefore generally satisfied with the design approach put forward subject to the omission of Unit 2 and subject to the amendments recommended above that the remainder of the scheme including the built forms of Units 1 and 3 would not be excessively dominant in their massing, scale, and height. Not would they be out of character with their urban landscape setting.

7.8. Other Matters Arising

7.8.1. Asbestos:

Concerns are raised by Third Party's in this appeal case that the proposed development may include the demolition of structures and/or contain within the red line area asbestos roofing material/debris. There is no documentation with this file that provides evidence and clarity that this concern is without foundation. I also observed that the roofing material of one of the structures may include asbestos roof tiles.

I note that Section 7.8.1 of the Development Management Guidelines indicates that regard should be had to the DEHLG Circular Letter WPR 7-06 and Best Practice Guidelines on the Preparation of Waste Management Plans for Construction & Demolition Projects when such matters arise. These documents provide guidance on how proposals with significant construction and demolition waste management issues relevant to planning should be considered in an integrated manner.

Should the demolition and site clearance work relate to the removal and disposal of asbestos I am cognisant that this is a Category 1 carcinogen. It is therefore incumbent on the developer that the proposed development, if permitted, appropriately deals with this material in a manner that accords with best practice as no level of exposure to asbestos is safe and there is no treatment currently available to aid a person to recover from its life shortening as well as life limiting consequences.

While I am cognisant that there are other legislative codes that deal specifically with asbestos and that compliance with such codes falls outside of the remit of the Board; notwithstanding, should the Board be minded to grant permission for the proposed development as a whole, or in part, I recommend that it include a condition that clarifies the presence of asbestos on site and what measures are to be taken in the interests of public health for its safe removal.

7.8.2. Archaeology (New Issue)

Map F of the Development Plan indicates the site is located in close proximity to the zone of archaeological constraint of 2 No. Record of Monuments and Places (RMP) as established under Section 12 of the National Monuments (Amendment) Act 1994.

The site setting is also one that has a recognised long history of settlement with the site itself in the historic maps not containing any substantive previous structures prior to the shed structures for which demolition is sought.

Further, the site setting is one that has been subject to change with that including additions to its period housing stock through to the redevelopment of pockets of brownfield and infill lands.

Though the matter of archaeology is not raised as an issue by the Planning Authority in their assessment of this proposed development or any party to this appeal. Nor is there a precautionary archaeological condition imposed by the Planning Authority in their decision notification. Notwithstanding, I consider that the general principle of any redevelopment of this site which includes the excavation to facilitate the construction of new structures as well as servicing should include as a precaution an archaeological condition in the interest of protecting any archaeological material that may be *in situ*. Such a condition in my view is appropriate to ensure accordance with Policy 26 of the Development Plan given the proximity of the site to two RMPs and the long history of settlement at this location. This I consider to be a 'New Issue' in the context of this appeal case.

8.0 Appropriate Assessment

- 8.1. Having regard to the proposed development, the site location within a built-up area outside of any protected site and the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European Site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

9.0 Recommendation

- 9.1. I recommend that a split decision that permits Unit 1 and 3 together with their ancillary works subject to the conditions set out under Schedule 1 for the reasons and considerations set out below and that permission is refused for Unit 2 for the reasons set out under Schedule 2 below.

Schedule 1

Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan, 2022-2028, including the 'Sustainable Residential Neighbourhoods – Zone Z1' and the 'Residential Neighbourhoods (Conservation Areas) – Zone Z2' land use zoning objective for the site and its setting; relevant policies and objectives of this plan, which includes considerations for developments relating to brownfield, infill and underutilised lands; the pattern of development that characterises this accessible serviced location and having regard to the overall built form, design, and layout of the proposed development; it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities or character of the area; it would not seriously injure the residential amenity of dwellings in the area; it would not be prejudicial to public health; it would not give rise to any traffic inconvenience and would be consistent with relevant local, regional through to national planning provisions and guidance. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on 9th day of October, 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
- (a) Unit 2 and its ancillary spaces as well as structures shall be omitted in its entirety.
 - (b) The open space between to the rear of Unit No. 1 and Unit No. 3 shall be equally split between both units. The positioning of Unit No. 1 shall be reconsidered as part limiting overshadowing of No.8D The Square.
 - (c) Unit 1 shall be revised at first floor level to contain one bedroom space with bedroom 2 omitted in its entirety or substantially reduced in its width and depth to accommodate additional storage for future occupants. The revised first floor level shall demonstrate that it addresses daylight and overshadowing impact on the adjoining property to the north.
 - (d) The western (rear) first floor level elevation of Unit 1 and 3 shall be revised to limit undue overlooking of adjoining properties.
 - (e) Unit No. 1 and Unit No. 3 shall be served by a maximum of two car parking spaces, and they shall be served by an entrance that has a maximum width of 3-metres that shall not have outwardly opening gates. The omitted car parking space shall be included into the landscaped areas of this scheme.
 - (f) The entrance, car parking space and cycle parking spaces serving the proposed development shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).
 - (h) All of the in-curtilage car parking spaces serving the residential units hereby permitted shall be provided with electric connections to the exterior of the houses to allow for the provision of a future electric vehicle charging point.

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

Reason: In the interests of residential and in the interest of orderly development.

3. The development hereby approved comprises 2 dwelling units.

Reason: To clarify the number of units hereby approved.

4. The first-floor level courtyards and flat roofs of Unit No. 1 and Unit No. 3 shall not be used as a terrace or balcony with access to them restricted to maintenance purposes only.

Reason: In the interests of residential amenity.

5. Prior to the commencement of any development on site the developer shall submit to, and agree in writing with the Planning Authority, an asbestos survey and plan in relation to the safe management of its removal from site in a manner that accords with best practice. This survey should also identify, if any, other hazardous materials removal from site as a precaution.

Reason: In the interest of public health.

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

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

7. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of public safety and amenity.

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

Reason: In the interest of public health and in the interest of orderly development.

9. The developer shall comply with the detailed requirements of Transportation Planning Division and the Noise & Air Pollution Section of the Planning Authority.

Reason: To ensure a satisfactory standard of development in the interest of noise protection with the site being located within 'Noise Zone C' relative to Dublin Airport, pedestrian, and traffic safety.

- 10.A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:

- (a) Details of all proposed hard surface and/or permeable surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing, and road surfaces within the development.
- (b) Proposed locations of trees and other landscape planting in the development, including details of proposed species and settings.
- (c) Details of all external lighting fixtures.
- (d) Details of proposed boundary treatments at the perimeter of the site, including heights, materials, and finishes. Details shall also include the details of the treatment of the eastern boundary of the site adjoining Ringsend Park and the measures to be taken for the protection as well as repair of the period stone boundary walls arising from the proposed development and where necessary to safeguard their structural integrity.

- (e) Boundary treatment and landscaping scheme shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

11. Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

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

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

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

13. 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.

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

provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

15. a) Prior to commencement of development, proposals for a development name and numbering scheme, and associated signage shall be submitted to and agreed in writing with the planning authority. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme. b) The development name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

16. If, during the course of site works any archaeological material is discovered, the City Archaeologist of Dublin City Council shall be notified immediately. The applicant/developer is further advised that in this event that under the National Monuments Act, the National Monuments Service, Dept. of Housing, Heritage and Local Government and the National Museum of Ireland require notification.

Reason: In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the

Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Advisory Note:

The developer is advised that Section 34(13) of Planning and Development Act, 2000 (as amended) states that 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'.

Schedule 2

Reasons and Considerations

Having regard to the 'Z1' and 'Z2' zoning objective for the site and its setting, Section 15.13.3 and Section 15.13.4 of the Dublin City Development Plan, 2022-2028; the pattern of development in the area and the nature, scale and extent of the proposed development, it is considered that Unit 2, by reason of its positioning to site boundaries of adjoining properties, its overall built form and design scale, would seriously injure the residential amenities and of adjoining properties by reason of visual obtrusion, overlooking and overshadowing. It is also considered that this unit would represent significant overdevelopment of this constrained site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

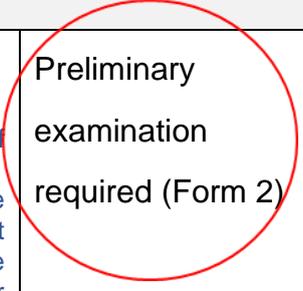
Patricia-Marie Young

Planning Inspector

29th day of April, 2025.

Form 1 EIA Pre-Screening

An Bord Pleanála	ABP-321310-24		
Case Reference			
Proposed Development Summary	Demolition of 3 vacant sheds and construction of 3 two-storey 2-bedroom plus study mews houses with existing access from Saint Brendan's Cottages together with all associated works & services.		
Development Address	Rear of No.s 4-16 Saint Brendan's Cottages, Dublin 4.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	√	
	No		
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	√	Yes. Subthreshold for Class 10(b)(i); Class 10(b)(iv); Class 14 & Class 15(b) of the Planning Regulations, 2001, as amended.	Proceed to Q3.
No			Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required

No	√	No. Subthreshold for Class 10(b)(i); Class 10(b)(iv); Class 14 & Class 15(b) of the Planning Regulations, 2001, as amended.	Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	√	<p>Yes: Sub threshold for:</p> <p>Class 10(b)(i); Class 10(b)(iv); Class 14 and Class 15(b) of Planning Regulations, 2001, as amended.</p> <p>This is based on the modest site area of 629m²; the modest nature of demolition (Note: 237m²) and the modest number of units sought (3 proposed units). Therefore, the overall nature, extent and scale of this project is significantly below the applicable thresholds for EIA.</p>	 <p>Preliminary examination required (Form 2)</p>

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

Inspector: _____

Date: 29th day of April, 2025.

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321310-24
Proposed Development Summary	Demolition of 3 vacant sheds and construction of 3 two-storey 2-bedroom plus study mews houses with existing access from Saint Brendan's Cottages together with all associated works & services.
Development Address	Rear of No.s 4-16 Saint Brendan's Cottages, Dublin 4.
<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>	
<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).</p>	<p>This project would provide a modest residential development in a built-up urban area of Dublin city in a manner that would be consistent with the pattern and scale of development within its setting. The proposed development which is of a modest nature, scale and extent would not result in significant environmental effects during its demolition, construction through to operational phases given its locational characteristics.</p> <p>In this regard the demolition works would relate to three modest in size single storey structures and their removal of site. Additionally, this would be accompanied by site clearance of built and natural features as part of facilitating the repurposing of this site for the proposed residential scheme.</p> <p>The construction materials and activities would be typical for an urban residential development of this nature, scale, and extent. Should asbestos be present on this site there are strict safeguards for its dismantling and removal off site. It is not uncommon for sites</p>

	<p>to contain this type of material given the era in which the shed structures were likely to have been constructed.</p> <p>Additionally, the use of fuels and materials would be typical for construction sites for residential type developments.</p> <p>Demolition, construction, and site clearance impacts would be local and temporary in their nature, scale as well as extent and could be reasonably and appropriately managed by way of conditions including but not limited to the written agreement of a Construction Environmental Management Plan as well as other standard conditions that deal with expected nuisances from dust, noise, vibrations through to management of waste and materials that have the potential to contaminate should they enter into ground water. However, the site has sufficient lateral separation from the nearest Natura 2000 site for any contaminants to be diluted to a negligible level. Additionally, properties within this area are served by a potable water supply.</p> <p>In terms of accidents, no significant risk are anticipated having regard to the nature, scale and extent of the development. Any risk arising from demolition and construction will be localised and temporary in nature and as said there are strict procedures for the handling of any carcinogenic materials that may be present on site.</p> <p>No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project.</p>
<p>Location of development (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 would be consistent with the pattern of residential development in its urban neighbourhood. There would be no significant impact on any protected areas, protected views, built or natural heritage or European Sites.</p>

<p>Types and characteristics of potential impacts (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>It is to be expected that all development has the potential for some impacts/disturbance/nuisances during the construction phase such as noise, vibration, dust, air quality and traffic. However, these to be expected impacts would be short term / temporary in duration and can be appropriately managed as well mitigated by way of conditions including but not limited to the implementation of a detailed Construction Environmental Management Plan through to Resource/Waste Management through to other standard conditions that are standard to apply as part of a grant of permission for the nature, scale and extent of development sought.</p>	
Conclusion		
<p>Likelihood of Significant Effects <u>There is no real likelihood of significant effects on the environment.</u></p>	<p>Conclusion in respect of EIA <u>EIA is not required.</u></p>	<p>No/Yes <u>No.</u></p>

Inspector:

Date: 29th day of April, 2025.

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)