



An  
Bord  
Pleanála

## Inspector's Report

### ABP-321759-25

<b>Development</b>	Revisions to permission granted under reg. ref. 3164/23.
<b>Location</b>	62-64 Fenian Street, Numbers 2, 3, 4, 9, 10 & 11 Bass Place and Numbers 1-3 Sandwith Street Upper, Dublin 2
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	3861/24
<b>Applicant(s)</b>	Gold Run Properties Ltd
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Grant permission subject to conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Conor McGarry
<b>Observer(s)</b>	Anne Gaynor
<b>Date of Site Inspection</b>	03 <sup>rd</sup> April 2025
<b>Inspector</b>	Sarah O'Mahony

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## **1.0 Site Location and Description**

- 1.1. The 0.1905ha site is situated between Merrion Square and Pearse Street train station in Dublin city centre. The site fronts onto Fenian Street, Bass Place, Boyne Street and Sandwith Street Upper. It does not occupy the entire block however and much of Boyne Street does not form part of the site. There is a cul-de-sac laneway accessing the rear of some of the site from Sandwith Street Upper to the east.
- 1.2. Buildings on site range from two to three stories while land use in the area is a mix of residential and commercial property. Neighbouring structures facing the site range from 3-8 stories.
- 1.3. The site currently comprises a mix of occupied and vacant commercial and residential properties with car parking spaces and private open space to the rear. Some of the residential units on Bass Place have the appearance of being recently refurbished.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for revisions to the previously granted reg. ref. 3164/23, which comprises the following:
  - Extending the application site from c.0.183ha to c. 0.190 ha to include no. 11 Bass Place:
  - Demolition of 11 Bass place an end of terrace 2 Storey house in addition to those previously granted permission for demolition.
  - Replacing the previously granted 3 storey, Block 2 aspect, which incorporated a gym / yoga studio, with a larger footprint 3 storey residential block providing 8no. one bed apartments with balconies facing north west, west and south, and a ground floor garden / balcony to the east.
  - Accordingly, omission of Condition 5 referring to the yoga / gym use of this block is also sought.
  - Modifications are sought to the ground, basement, 6th floor and roof terrace of Block 1 to include:

- Relocation of the bin store serving all blocks to the basement / lower ground (19.5sqm) together with a new backup generator room (20sqm) for the life safety systems,
- Provision at ground floor of a gym facility facing Bass Place and a coffee / retail outlet to the southwest corner facing Fenian Street,
- Provision of an additional one-bedroom apartment at ground floor facing Bass Place with a western facing balcony,
- Relocation of the ESB Substation & switch room from the western façade at Bass Place to the eastern façade laneway, including minor layout alterations to the previously granted one bedroom ground floor apartment and eastern facing balcony on the eastern façade.
- Proposed minor increase to the 6th floor area (additional 12sqm) to facilitate provision of a three bedroom and one bedroom apartment in the area previously proposing 2 two-bedroom apartments.
- Accordingly, the omission of condition 4 is also sought.
- Minor revision to the roof terrace of Block 1 to include a cold-water storage tank and ancillary plant.
- Modifications and minor extension at ground (7.65sqm) first floor (5.4sqm) & second floor (2.5sqm) to Block 3 together with:
  - Replacement of the ground floor Bin and Bicycle store with a new 1-bedroom apartment with a south facing balcony.
- Together with minor modifications to the public and communal open space areas. All at 62-64, Fenian Street, Nos. 2,3,4,9,10 & 11 Bass Place and Nos. 1-3 Sandwith Street Upper, Dublin.

### **3.0 Planning Authority Decision**

#### **3.1. Further Information**

- 3.1.1. Further information was requested to submit a revised Site Specific Flood Risk Assessment (SSFRA) including addressing the change of use in Block 2 from a less

vulnerable gym use to a highly vulnerable residential use and address matters regarding the recommended finished floor level to ensure it is achievable and feasible. Additionally, the request sought to expand the SSFRA to appraise pluvial flooding, clarify flood resilient and resistance measures for Blocks 2 and 3, clarify the volume of an attenuation tank and to liaise with the Local Authority's Drainage Section prior to lodging the response.

- 3.1.2. Further information was also sought regarding overlooking from 2no. windows on the east elevation serving kitchens in Block 2. The FI request suggested high level windows could be provided instead.
- 3.1.3. Lastly, further information was sought to clarify the proposed balcony screening to unit 3 of block 2 to ensure there is no overlooking to adjoining premises.
- 3.1.4. The Applicant responded by noting that the residential zoning objective on the site followed the Local Authority's Strategic Flood Risk Assessment which justified a residential use on the ground floor. It also states that the Applicants SSFRA further outlines the suitability of the site for residential uses and also outlines proposed mitigation measures to address the only likely flood event from tidal flooding. These measures include demountable flood barriers as well as the permanent boundary walls. The FFL of Block 2 has also been raised slightly and an updated enlarged attenuation tank is proposed.
- 3.1.5. The aforementioned kitchen windows were revised to a high-level window each in order to eliminate overlooking concerns. Blank aluminium panels are proposed at the lower sections of each ope to replicate the overall shape and scale of the ope, maintaining the vertical emphasis and consistency in design.
- 3.1.6. A revised proposal was submitted to address overlooking to adjoining properties. Aluminium baffles would be installed to prevent inappropriate views to and from the balcony in question.
- 3.1.7. The Local Authority requested a Clarification of Further Information regarding flood risk and the proposed ground floor use of Block 2 for residential purposes as it states that the maps indicate the area is a local low point and may suffer from both tidal and pluvial flood risks.

- 3.1.8. The Applicant's response clarifies that the proposed ground floor FFL would be increased above the existing footpath level by 1.44m with all other internal floor levels adjusted accordingly with a revised total building height increased from 8.54 as proposed to 9.3m. A subsequent report from the Drainage Section outlines no objection to the proposal.

### 3.2. **Decision**

- 3.2.1. A notification of decision to GRANT planning permission was issued by Dublin City Council (the Planning Authority) on 16<sup>th</sup> December 2024 subject to 15no. standard conditions. Condition no. 15 is stated as follows:

*"15. The proposed demolition and excavation works shall be carried out in such a manner as to protect and ensure the continuing stability of the adjoining properties. All such works shall be carried out by a competent contractor, under the supervision of a chartered structural engineer.*

*Reason: To protect the stability of adjoining properties."*

### 3.3. **Planning Authority Reports**

#### 3.3.1. Planning Reports

- 3 no. reports were published to respond to the application, further information response and clarification of further information response.
- The Planners report recommendation to grant permission is consistent with the notification of decision which issued.
- Appropriate Assessment (AA) and Environmental Impact Assessment (EIA) issues are both screened out.
- The reports noted that the proposed layout would meet residential standards. 3no. less car parking spaces are proposed as part of the redesigned basement in Block 1 however the report considered this to be acceptable given the central location of the site.
- The report notes that as part of the parent permission, it was recommended that archaeological testing be undertaken, as per the recommendations of the

Archaeology report received at that time. This Case Planners report states that due to an administrative error, the condition was not attached to the parent permission and a recommendation is therefore now made to include it. I note condition no.11 deals with this matter.

- The Case Planner's report notes the Drainage Department's recommendation to refuse permission for ground floor units in Block B however it considered it appropriate to give the applicant an opportunity to address concerns highlighted by the Drainage Department.

#### 3.3.2. Other Technical Reports

- Drainage Division: 3no. reports were received the first of which sought further information. The second report recommend a split decision with a refusal for ground floor residential units in Block 2 but a grant of permission for all remaining items. Following receipt of the clarification of further information the Drainage Department issued a report with no objection to the proposal subject to conditions.
- Transportation Department: No objection subject to conditions.
- Archaeology, Conservation and Heritage Department: Report received regarding archaeology which outlines the same administrative error resulting in omission of an appropriate archaeological condition. No objections are raised in this report but a recommendation is made to attach the condition which is outlined.

#### 3.4. Prescribed Bodies

- Transport Infrastructure Ireland: Report received recommending the attachment of a Section 49 financial contribution due to the site's location within the Luas Cross City scheme area.
- Development Applications Unit of DoHLG: Concern raised that the development may impact swifts and swallows, a bat roosting habitat and further disturb nesting birds due to the removal of vegetation and demolition of buildings. It recommends that surveys are carried out prior to the commencement of development and appropriate mitigation measures are agreed with the Department if species are identified on the site.



- Environmental Health Officer: Report received which states no objections but recommends standard conditions regarding construction mitigation measures.
- The application was also referred to the following however no response was received:
  - Uisce Éireann
  - Iarnród Éireann
  - National Transport Authority

### 3.5. Third Party Observations

19 no. observations were received from the following:

1. Conor McGarry,
2. Mary Forde,
3. Darren Coburn,
4. James and Joan Coburn,
5. Tara Kavanagh,
6. Theresa Horan,
7. Liam Ward,
8. Patricia Murray on behalf of others and Boyne Street Residents Association,
9. Patrick Bran and Boyne Street Residents Association,
10. Joseph O'Connor on behalf of others and Boyne Street Residents Association,
11. Liz Watson on behalf of Hogan Place and District Residents Association,
12. Helen Augustu,
13. Doneen O'Connor on behalf of others and Boyne Street Residents Association,
14. Edel Metcalfe on behalf of Boyne Street Residents Association,
15. Geraldine Byrne on behalf of others and Boyne Street Residents Association,
16. Alice Dwyer on behalf of Boyne Street Residents Association,
17. Ann Boyd,
18. Anne Gaynor on behalf of others and Boyne Street Residents Association and
19. Celine Quinn on behalf of others and Boyne Street Residents Association.

They raised the following matters:

- Request to undertake building condition surveys of existing dwellings prior, during and after works.
- Reduce the scale of the proposal facing Boyne Street to align with the existing 100-year-old streetscape.
- Implement a comprehensive noise monitoring plan with publicly available results.
- Request for no HGV access to Boyne Street, Bass Place and Cumberland Street.
- Request to appoint a liaison officer during construction works.
- Request to prohibit construction related parking on Boyne Street.
- Request that the developer is responsible for regular window, street and footpath cleaning of nearby properties.
- Request to alter construction times with deliveries permitted from 7am and work commencing at 8am. Request that the Enforcement Section adequately enforces start times.
- Block 2 would overshadow and overlook adjoining dwellings.
- Contemporary design of 3-storey Block 2 is out of character with older two-storey red-brick buildings.
- Proposal doesn't add value to the traditional communities of the area as there are no public spaces, community infrastructure or social and affordable housing proposed.
- Request to enforce Part V housing delivery onus on the Developer.

## **4.0 Planning History**

- 4.1.1. 3164/23: Planning permission granted for the demolition of two-storey over basement commercial building at 62-64 Fenian Street, 5 terraced houses at Nos. 2,3,4, 9 and 10 Bass Place, and Nos.1-3 Sandwith Street Upper. Permission also granted for construction of 71 apartments in 3no. blocks ranging from three to nine stories including basement car parking, cycle parking, bin store, communal amenity

space at ground floor and rooftop levels and a café and gym/yoga studio. Condition nos. 4 and 5 which the applicant wishes to omit are as follows:

*“4. Prior to the commencement of development, the Applicant shall submitted drawings, for the written approval of the Planning Authority, indicating the following a) The proposed bin store at ground floor level shall be relocated and replaced with a restaurant/café and/or retail unit at the corner of Fenian St and Bass Place. Details submitted should also include all necessary internal amendments to the overall development scheme to ensure future residential amenity is safeguarded. b) In the interests of residential amenity, whilst taking into account the limitations/constraints of the proposed building, Units 7 and 8 at 6th floor level shall be combined to create one larger (3 bed) residential unit.*

*Reason: In the interests of orderly development, residential amenity and the proper planning and sustainable development of the area.*

*5. The yoga studio and gym within Block 2 shall be made available to all residents within the proposed scheme.*

*Reason: In the interests of residential amenity.”*

- 2220/20: Planning permission refused for the demolition of a) five two storey terraced houses at 6-10 Bass Place, Dublin 2 and b) existing two storey (over basement) commercial warehouse unit at 62-64 Fenian Street, Dublin 2. Permission was refused for the following reasons:

- 1. The proposed demolition and loss of five residential terraced buildings in this Z2 residential conservation area would give rise to the loss of the original historic fabric and urban grain and have a seriously adverse impact on the historic streetscape of this Z2 Residential Conservation Area. The proposed demolition would not protect, provide or improve the residential amenities of this conservation area, would therefore be contrary be the Z2 zoning objective, would set an undesirable precedent for similar type development and is contrary to the proper planning and sustainable development of the area.*
- 2. The proposed demolition of five residential terraced buildings without a plan for redevelopment would be premature and the proposal, by itself and by the*

*precedent for which a grant of permission for it would set, would be contrary to the stated provisions of the Core Strategy of the City Development Plan 2016-2022 which recognises residential units as a scarce resource, which needs to be managed in a sustainable manner, so that the housing needs of the city are met. The proposed development, resulting in the loss of five dwellings, would also be contrary to the core principles of the Dublin Housing Strategy 2016-2022 which requires that the planning and building of housing and residential space in the city contributes to sustainable and balanced development. The proposed development would therefore be contrary to Dublin City Development Plan 2016-2022 Policy QH23 and the proper planning and sustainable development of the area.*

3. *The proposed demolition of the commercial building in the absence of a proposal for reinstatement of the streetscape would result in an empty site which would be seriously harmful the streetscape character and to the residential and visual amenity of the area.*

- 1940/02: Planning permission for a development of affordable accommodation at the Corner of Fenian Street and Bass Place, Dublin 2. The development will consist of the demolition of 2 storey over basement building and construction of 7 storey accommodation block consisting of 46 single person units and a communal living area, above a one storey over basement podium containing meeting and training rooms, a restaurant and ancillary storage with associated site works.
- St. Andrews Court Part 8 Development: Planning permission granted in Q1 2025 for redevelopment of St. Andrews Court at Fenian Street and Sandwith Street. Development comprises demolition of the existing three-storey vacant residential building and construction of 33no. social housing units and landscaped courtyard.

## **5.0 Policy Context**

### **5.1. Development Plan**

- 5.1.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2022-2028 (referred to hereafter as the CDP). The site is zoned a combination of Z1 and Z2. Z1 provides for 'sustainable residential neighbourhoods'

where the objective is *to protect, provide and improve residential amenities*. Z2 provides for 'Residential Neighbourhoods (Conservation Areas)' where the objective is *to protect and/or improve the amenities of residential conservation areas*. The Z2 zoning objective goes on to state that '*The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area.*'

5.1.1. Objective QHSN36 seeks to:

*"promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood."*

5.1.1. Chapter 15 sets out development management standards for residential development. In relation to apartment uses, the majority of the design standards in Chapter 15 align with the Apartment Guidelines noted below. There are some deviations however such as encouraging all developments to meet or exceed 50% of units being dual aspect or to provide 33% of units with dual aspect in prime city centre locations.

## 5.2. Natural Heritage Designations

5.2.1. The site is situated 500m west of the Grand Canal proposed Natural Heritage Area. The site is also situated 2.3km northwest of South Dublin Bay Special Area of Conservation.

## 5.3. Built Heritage Designations

5.3.1. The CDP zoning maps identify the western part of the site as being situated within a site on the Record of Monuments and Places. No reference number or title is provided for the record on the map or the Case Planners report which simply highlights its location. I have reviewed the National Monuments Service online GIS

tool called the 'Historic Environment Viewer' and note there are no references to any built heritage records on the site.

#### **5.4. EIA Screening**

- 5.4.1. See completed Forms 1 and 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment based on the nature, size and location of the proposed development. No EIAR is required. A formal determination or notification is not required in these cases.

### **6.0 The Appeal**

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

One appeal is received from Conor McGarry which outlines support for the proposed development but submits that the conditions are inadequate to address impacts to adjacent properties and residents. It raises the following issues:

- Concern that demolition and construction would impact the structural integrity of existing dwellings. It considers that condition no. 15, which requires works to be supervised by a chartered engineer, does not go far enough to address concerns and requests the following amendments:
  - Pre-demolition surveys of neighbouring dwellings,
  - Implement a monitoring and reporting framework for vibrations and ground stability, and
  - Outline compensation and remediation processes for damage caused.
- The proposed communal outdoor area will impact security and privacy for existing dwellings which back onto this area. Request made to install gates and walls to restrict access.
- Concern that works could impact existing sewerage network and request made to carry out surveys and outline contingency plans prior to the commencement of

development. Request also made to require the developer to commit to repairs and upgrades to any damaged infrastructure at no cost to the residents.

- Request to change construction hours to commence no earlier than 9am.
- Request to require the operation of noise monitoring equipment at all times onsite.
- Request to permit bin collection via Fenian Street or Sandwith Street only to minimise traffic congestion and disruption to residents.
- Request to appoint a liaison mechanism including a requirement to provide a minimum of 48hrs notice to residents for disruption such as turning off water supply.

## **6.2. Applicant Response**

- None received.

## **6.3. Planning Authority Response**

Report received from Dublin City Council requesting the decision to grant permission to be upheld and in the event a grant of permission is made, that the following conditions are attached:

- Section 48 development contribution,
- Section 49 Luas Cross City financial contribution,
- Financial contribution in lieu of open space,
- Naming and numbering, and
- Requirement to implement a management company.

## **6.4. Observations**

One observation is received from Anne Gaynor which raises the following construction management issues:

- Request that construction staff do not leave vehicle engines idling.

- Request to ensure staff do not eat lunch underneath windows of residents dwellings.
- Request to extinguish floodlighting outside of construction hours.
- Request that HGV deliveries are managed so they are not waiting for the site to open as Boyne St is narrow and cannot accommodate HGVs.
- The observation submits that cement delivery trucks generate dirt while the drum is turning to agitate the contents.
- Request for noise monitoring.
- Request for condition surveys of neighbouring dwellings.
- Request to amend construction hours to commence later than 7am, finish at 6pm as stated on the condition, 8-2 on Saturdays and no works on Sundays or bank holidays. Request to notify residents of any changes in advance.
- Request to provide parking permits if road closures are required.
- Request to ensure bin collection is from Fenian Street.

## **7.0 Assessment**

### **7.1. Introduction**

- 7.1.1. Planning permission was granted under ref. 3164/23 to construct 71 no. units, a gym/yoga studio, café and outdoor space etc across 3no. blocks. The applicant has now sought permission to demolish 1no. additional existing structure, extending the site by 0.007ha and change the use and layout of Block 2 from the permitted gym/yoga studio to 8no. units. Permission is also sought for additional minor revisions to blocks 1 and 3 including reinstating 2no. units in lieu of 2no. as originally proposed but required by condition no. 4 to amalgamate to 1no. 3-bed unit.
- 7.1.2. This subject application was accompanied by the following reports:
- Design Statement
  - Daylight, Sunlight and Overshadowing Assessment
  - Engineering Services Report



- Site-specific Flood Risk Assessment

- 7.1.3. The principle of the wider strategy to provide 3no. blocks ranging from three to nine stories is established by the parent permission and I highlight that this assessment only relates to the extent of permission sought by this subject application.
- 7.1.4. The site is situated on lands zoned Z1 and Z2 both of which relate to residential uses. Omitting the permitted gym/yoga studio and replacing it with residential units is an acceptable approach in this regard. I note the proximity and proliferation of existing community infrastructure in the area as outlined in the Design Report as well as the revised proposal to provide a gym in Block 3 and therefore consider the principle of the development is acceptable.
- 7.1.5. I note from the Local Authority Case Planners report and the applicants Design Report outlining how each of the proposed new units meet residential and quantitative standards including private open space, aspect and unit mix. I also note that the additional unit to be demolished, no. 11 Bass Place, is the last in a row of terraced units. In my opinion demolishing this unit and replacing it with the proposed revised Block 2 provides a more coherent streetscape along Bass Place and also provides a good transition from the permitted nine storey Block 1 to the existing two storey dwellings along Boyne Street. The proposed materials and finishes as well as fenestration and scale etc all relate back to the permitted scheme and would provide a good sense of place at the streetscape.
- 7.1.6. Lastly, I note the contents of the internal and prescribed bodies reports which do not outline any objections with the proposed revisions and in conclusion I therefore consider the layout and design of the scheme, in so far as they relate to the proposed revisions, to be acceptable. I also therefore conclude that omitting condition nos. 4 and 5 of the parent permission ref. 3164/23 is acceptable.
- 7.1.7. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report(s) of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:
- Construction management,

- Access to communal open space, and
- Other matters

## **7.2. Construction Management**

- 7.2.1. The appeal and observation both make multiple requests for additional controls during the construction phase to protect their properties and residential amenity. Some of the issues can be addressed in this appeal, some are already addressed in the conditions attached to the parent permission, some are already addressed in the Outline Construction and Environmental Management Plan (OCEMP) received with the parent application and some are outside of the control of planning legislation entirely.
- 7.2.2. I note the OCEMP states that a detailed Construction Management Plan will be agreed with the Local Authority prior to commencement of works. This is also required by Condition no.12(f) of the parent permission. For clarity, the OCEMP was received with the parent permission and no OCEMP was received with this subject application. Therefore, all references to the OCEMP made in this report relate to the document received with the parent permission.
- 7.2.3. Starting with the last category to address issues raised in the appeal, in my opinion the following requests are outside of the remit of a planning appeal and there is no scope to apply any such conditions or controls within planning legislation:
- Implement a compensation and remediation process for damage caused to private properties. I consider this is a civil issue.
  - Request to ensure staff do not eat lunch underneath windows of resident's dwellings. I consider this is a civil issue.
- 7.2.4. The following are matters which are already addressed in either the conditions attached to the parent permission or in the OCEMP received with the parent permission.
- Request to implement vibration monitoring, ground stability measures and pre-demolition surveys of neighbouring dwellings: In the first instance, I note that the majority of demolition works associated with the overall scheme are permitted under the parent permission. The only additional demolition works proposed under this

revisions scheme relates to the vacant dwelling at no. 11 Bass Place which is not attached to any dwelling outside of the site. The rear boundary walls associated with its private open space are attached to a private dwelling on Boyne Street and I do not consider that the scale of works required to demolish no. 11 and its boundary walls are likely to impact any other properties. For the sake of clarity however and addressing cumulative impacts, I note that the OCEMP states *a strict monitoring regime shall be put in place prior to commencement of demolition which shall include vibration monitoring, crack tell tales, movement prism targets etc.* I also note condition no. 12 (f)(i) of the parent permission requires the preparation of 'A *Demolition Management Plan, providing details of intended demolition practice for the development, including traffic management, hours of working, noise and dust management measures and off-site disposal of demolition waste*' while condition no. 12(f)(x) requires details of appropriate measures to mitigate vibration from construction activity. With regard to the specific request for surveys, in the absence of any response from the applicant on this matter, as well as any such recommendation from the Local Authority, I consider the surveys are not required due to the scale of works proposed and the management measures outlined above. I consider these are sufficient to mitigate against impacts during the demolition phase.

- Request for noise monitoring at all times: The OCEMP states that noise monitoring stations will be erected and monitored daily and a noise and vibration specialist will be appointed to carry out independent monitoring of noise and vibration during critical periods and at sensitive locations. It states that a noise liaison officer will be appointed and charged with the responsibility of keeping people informed and setting down procedures for dealing with complaints. Condition no. 12(f)(xi) of the parent permission requires details of appropriate mitigation measures for noise and dust, and the monitoring of such levels. I therefore consider the matter to be addressed.
- Request to carry out surveys of existing sewage network and outline contingency plans. The OCEMP states that detailed surveys will be carried out beforehand to identify all buried services as well as those potentially serving neighbouring properties.

- Request made to require the developer to commit to repairs and upgrades to any damaged sewage infrastructure at no cost to the residents. The Engineering Services Report received with the application sets out the location of known existing foul drainage infrastructure which is all within the public streets and not within the site itself. It states that any existing connections which require decommissioning shall be carried out in accordance with Uisce Éireann's requirements. Uisce Éireann is the competent authority for such infrastructure and I note a Confirmation of Feasibility was submitted with this application and therefore consider the issue to be addressed. Matters relating to costs are a civil issue and outside the scope of this appeal.
- Two separate requests were made regarding construction hours. One requested that construction commences no earlier than 9am and the other simply to start later than 7am. I consider this is unreasonable and would only serve to lengthen the overall construction period which is currently stated to take 18 months to complete. In my opinion a 7am start time is acceptable particularly due to the short and temporary construction phase.
- A number of requests are made in different guises regarding appointment of a liaison officer as a general point of contact for local residents as well as notifying them of changes to working hours or providing 48 hours notice for disruption e.g. to water supplies. The OCEMP states that a complaints procedure system will be put in place with records kept for inspection by DCC if required and that a site representative will be appointed for noise and vibration matters. I therefore consider that appointment of a Liaison Officer is a reasonable request and recommend a condition is attached accordingly.
- Request to provide parking permits if road closures are required. I consider this is a matter for Dublin City Council to decide on a case by case basis however I also note condition 12(f)(ix) of the parent permission requires 'alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works' and therefore consider the matter to be addressed.
- Request to extinguish floodlighting outside of construction hours. The OCEMP states 24hr security will be provided and in my opinion floodlighting may be needed

for security reasons. I consider however that efforts could be made to provide cowls to redirect lighting away from private residences and avoid floodlighting. I recommend a condition should be attached in this regard.

- Request that HGV deliveries are managed so they are not waiting for the site to open as Boyne Street is narrow with residents cars parked on both sides. The OCEMP states deliveries to site will be scheduled outside of peak traffic times to ensure timely arrival and avoid disturbance to commuting flows. It also states that any deliveries outside of permitted hours will be subject to advance agreement with DCC and '*at no time will construction associated vehicles be stopped or parked along haulage routes*'. I therefore consider the matter to be addressed.
- Concerns are raised regarding dirt and debris on the public road. The OCEMP states roads will be regularly inspected and cleaned and a road sweeper will be employed as needed to keep the road around the site clean. It also states that a further project environmental management plan will be drawn up in detail to include silt control on public roads. Further, condition no. 12(f)(vii) of the parent permission requires the final CMP to include measures to prevent the spillage or deposit of clay, rubble or other debris on the public road.
- Request that construction staff do not leave vehicle engines idling. Planning legislation has no remit to provide such control measures for private vehicles however I note the OCEMP states that no construction related car parking will be provided on site and construction staff will be encouraged to utilise public transport. It also states that vehicles will avoid unnecessary revving and will switch off engines when not required.
- Request made to permit bin collection via Fenian Street or Sandwith Street only. I note the proposed application includes revisions to the permitted application to relocate the bin store as required under condition no. 4 of the parent permission. The revised location is now accessed from both the communal outdoor area and the basement to Block 1 which therefore provides connections externally to either Bass Place or Sandwith Street as well as the cul-de-sac laneway to the east of the communal open space and south of Block 3. In my opinion, the collection of refuse from any of the 4no. streets surrounding the site would not interfere with traffic flows or residential amenity due to the temporary and short duration of such a process

weekly or fortnightly and therefore significant disruption is unlikely to occur. I do not recommend attaching any such condition. I also note Condition no. 13(a) of the parent permission requires compliance with the Local Authority's by-laws for the Storage, Presentation and Collection of Household and Commercial Waste and therefore consider that sufficient control and management of refuse collection is in place.

### **7.3. Access to Communal Open Space**

- 7.3.1. A request is made to restrict access to the ground level communal open space due to a perceived threat to the security and privacy of existing dwellings which back onto this area. The request specifically asks for boundary gates and walls to be installed to enclose the communal open space. I disagree with this approach as it would restrict permeability. The permitted and proposed layout means that the area would benefit from passive surveillance from all directions which would significantly reduce the likelihood of any security breaches to private property. Additionally, the landscaping plan proposes to provide a line of trees adjacent those boundary walls shared with the private dwellings which would aid privacy and increase screening.

### **7.4. Other matters**

- 7.4.1. I note a recommendation from the Development Applications Unit which is concerned that the development may impact swifts and swallows, a bat roosting habitat and further disturb nesting birds due to the removal of vegetation and demolition of buildings. Having regard to the scale of demolition proposed under this subject application which relates to one dwelling only, I do not consider it necessary to attach such a condition.

## **8.0 AA Screening**

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The site is situated 2.3km northwest of South Dublin Bay Special Area of Conservation.

- 8.3. The proposed development comprises revisions to permitted development comprising demolition of an additional unit, construction of revised Block 2 to comprise 3-storey block with 8no. residential units and other minor revisions across permitted blocks.
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- 8.6. The scale and domestic nature of the proposed revisions in a serviced urban area,
- 8.7. The distance from the nearest European site and lack of connections, and
- 8.8. Taking into account screening report/determination by Dublin City Council,
- 8.9. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 8.10. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## **9.0 Recommendation**

I recommend that planning permission is granted, subject to conditions, for the reasons and considerations set out below.

## **10.0 Reasons and Considerations**

Having regard to the location and character of the site and surrounding area in an urban area together with the provisions of the Dublin City Development Plan 2022-2028 including the Z1 and Z2 zoning of the site and the design and layout of development permitted under DCC ref. 3164/23, it is considered that, subject to compliance with the conditions set out below, the scale and nature of the development is acceptable. The development would not seriously injure the visual or residential amenity of the area. The development is, therefore, in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 24<sup>th</sup> day of September 2024 and the 25<sup>th</sup> day of November 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission Register Reference 3164/23 unless the conditions set out hereunder specify otherwise. This permission shall expire on the same date as the parent permission.</p> <p>Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permissions.</p>
3.	<p>No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown on the drawings hereby approved, unless authorised by a prior grant of Planning Permission. Reason: To safeguard the amenities of surrounding occupiers and the visual amenities of the area in general.</p>
4.	<p>Site development and building works shall be carried out between the hours of 07:00 to 18:00 Mondays to Fridays inclusive, between 08:00 to 14:00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional</p>



	<p>circumstances where prior written agreement has been received from the planning authority.</p> <p>Reason: To safeguard the amenity of property in the vicinity.</p>
5.	<p>The following requirements of the Archaeology Division shall be complied with;</p> <ul style="list-style-type: none"> <li>a) No construction or site preparation work may be carried out on the site until all archaeological requirements of the Planning Authority are complied with.</li> <li>b) The project shall have an archaeological assessment (and impact assessment) of the proposed development, including all temporary and enabling works, geotechnical investigations, e.g. boreholes, engineering test pits, etc., carried out for this site as soon as possible and before any site clearance/construction work commences. The assessment shall be prepared by a suitably qualified archaeologist and shall address the following issues.</li> <li>c) The archaeological and historical background of the site, to include industrial heritage.</li> <li>d) A paper record (written, drawn, and photographic, as appropriate) of any historic buildings and boundary treatments, etc.</li> <li>e) The nature, extent and location of archaeological material on site by way of archaeological testing &amp;/or monitoring of the removal of overburden.</li> <li>f) The impact of the proposed development on such archaeological material.</li> <li>g) The archaeologist shall forward their Method Statement in advance of commencement to the Planning Authority.</li> <li>h) Where archaeological material is shown to be present, a detailed Impact Statement shall be prepared by the archaeologist which will include specific information on the location, form, size and level (corrected to Ordnance Datum) of all foundation structures, ground beams, floor slabs, trenches for services, drains etc. The assessment</li> </ul>

	<p>shall be prepared on the basis of a comprehensive desktop study and, where appropriate/feasible, trial trenches excavated on the site by the archaeologist and/or remote sensing. The trial trenches shall be excavated to the top of the archaeological deposits only. The report containing the assessment shall include adequate ground-plan and cross-sectional drawings of the site, and of the proposed development, with the location and levels (corrected to Ordnance Datum) of all trial trenches and/or bore holes clearly indicated. A comprehensive mitigation strategy shall be prepared by the consultant archaeologist and included in the archaeological assessment report.</p> <p>i) No subsurface work shall be undertaken in the absence of the archaeologist without his/her express consent. The archaeologist retained by the project to carry out the assessment shall consult with the Planning Authority in advance regarding the procedure to be adopted in the assessment.</p> <p>j) One hard copy and 1 digital copy in pdf format containing the results of the archaeological assessment shall be forwarded on completion to the Planning Authority. The Planning Authority (in consultation with the City Archaeologist and the National Monuments Service, Dept. of Housing, Local Government and Heritage, shall determine the further archaeological resolution of the site.</p> <p>k) The developer shall comply in full with any further archaeological requirement, including archaeological monitoring, and if necessary archaeological excavation and/or the preservation in situ of archaeological remains, which may negate the facilitation of all, or part of any basement.</p> <p>l) The developer shall make provision for archaeological excavation in the project budget and timetable.</p> <p>m) Should archaeological excavation occur the following shall be submitted to the Planning Authority:</p> <p>n) A bi weekly report on the archaeological excavation during the excavation and post excavation period.</p>
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	<p>o) A preliminary report on the archaeological excavation not later than four weeks after the completion of the excavation.</p> <p>p) A final report on the archaeological excavations not later than twelve months after the completion of the excavation.</p> <p>q) Before any site works commence the developer shall agree the foundation layout with the Planning Authority.</p> <p>r) Following submission of the final report to the Planning Authority, where archaeological material is shown to be present the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City Archaeological Archive Guidelines (2008 Dublin City Council), and lodged with the Dublin City Library and Archive, 138-144 Pearse Street, Dublin 2.</p> <p>Reason: In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.</p>
6.	<p>A Liaison Officer shall be appointed as a point of contact between the construction contractor and the general public/local residents. Details of this Liaison Officer shall be provided on signage boards at the entrance to the site as well as to local residents.</p> <p>Reason: In the interest of clarity.</p>
7.	<p>During construction, artificial lighting shall not overspill onto adjoining areas.</p> <p>Reason: In the interest of protecting the amenities of property.</p>
8.	<p>The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.</p> <p>Reason: To prevent flooding and in the interests of sustainable drainage.</p>

9.	<p>The developer shall comply with the requirements set out in the Codes of Practice from the Drainage Division, the Transportation Planning Division and the Noise &amp; Air Pollution Section of the Local Authority.</p> <p>Reason: To ensure a satisfactory standard of development.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, 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.</p> <p>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.</p>
11.	<p>The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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</p>

	<p>An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Sarah O'Mahony  
Planning Inspector

09<sup>th</sup> April 2025

# Form 1

## EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-321759-25		
<b>Proposed Development</b> <b>Summary</b>	Revisions to permitted development comprising demolition of an additional unit, construction of revised Block 2 to comprise 3-storey block with 8no. residential units and other minor revisions across permitted blocks.		
<b>Development Address</b>	62-64 Fenian Street, Numbers 2, 3, 4, 9, 10 & 11 Bass Place and Numbers 1-3 Sandwith Street Upper, Dublin 2		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	<b>X</b>
		<b>No</b>	Tick if relevant. No further action required
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	<b>X</b>	Class 10 (b)(i) Construction of more than 500 dwelling units.  Class 10 (b)(iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere	Proceed to Q3.
<b>No</b>			Tick if relevant. No further action required
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			

Yes			EIA Mandatory EIAR required
No	<b>X</b>		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
Yes	<b>X</b>	<p>Class 10(b)(i) Threshold = 500 units Proposal = 82 units (combined with permitted development)</p> <p>Class 10 (b)(iv) Threshold = 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. Proposal = 0.1905</p>	Preliminary examination required (Form 2)

<b>5. Has Schedule 7A information been submitted?</b>		
No	Tick/or leave blank	<b>Pre-screening determination conclusion remains as above (Q1 to Q4)</b>
Yes	Tick/or leave blank	<b>Screening Determination required</b>

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	<b>ABP- 321759-25</b>
<b>Proposed Development Summary</b>	Revisions to permitted development comprising demolition of an additional unit, construction of revised Block 2 to comprise 3-storey block with 8no. residential units and other minor revisions across permitted blocks.
<b>Development Address</b>	62-64 Fenian Street, Numbers 2, 3, 4, 9, 10 & 11 Bass Place and Numbers 1-3 Sandwith Street Upper, Dublin 2
<p><b>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.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b> (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>The urban site is serviced and its size is not exceptional in the context of the prevailing plot size in the area.</p> <p>A short-term construction phase would be required for the proposed revisions, within the permitted medium-term construction phase for the permitted development. The development would not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance due to its scale. The development, by virtue of its type and nature, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. Its operation presents no significant risks to human health.</p> <p>The size and scale of the proposed revisions would introduce a taller building on Bass Place and Boyne Street but not significantly so and would remain lower than buildings on adjacent streets.</p>
<p><b>Location of development</b> (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,</p>	<p>The development is situated in an urban area on a site facing the street and situated adjacent to existing residential and commercial properties which is not exceptional in the context of surrounding development.</p> <p>It is not likely to have any cumulative impacts or significant cumulative impacts with other existing or permitted projects.</p>



European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The development is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan.	
<b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the nature of the proposed development and works constituting revisions to a permitted development, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act	
Conclusion		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	<b>Yes or No</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_