



An
Coimisiún
Pleanála

Inspector's Report ABP-322658-25

Development	Protected Structure: Construction of dwelling with all associated site works.
Location	Site to the rear of 26 Highfield Road, Rathgar, Dublin 6 D06 A7Y8, a Protected Structure sharing, a corner with Oaklands Drive
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4222/24
Applicant(s)	Colleen Feeley
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Jonathan Boylan and Jacinta Lambert
Observer(s)	Stephen Martin and Audrey Martin
Date of Site Inspection	31 st July 2025
Inspector	Carol Hurley

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1.0 Site Location and Description

- 1.1. The appeal site is located within the rear garden of No. 26 Highfield Road, Rathgar, Dublin 6, D06A7Y8.
- 1.2. No.26 Highfield Road which is the host dwelling on the site is a two storey over basement, red brick semi-detached dwelling and is a Protected Structure, Ref. 3840. Access to the ground floor entrance is via external steps. The properties along the southern side of Highfield Road consist of period dwellings with a substantial set-back from the road.
- 1.3. The host dwelling addresses the Highfield Road with a north facing orientation. The rear garden in which the subject site is located addresses Oaklands Drive with an east facing orientation.
- 1.4. The boundary treatment to Highfield Road (north) consists of metal railing with plinth wall and planting. The boundary to Oaklands Drive consists of an historic stone wall.
- 1.5. The area can be characterised as being established residential and is laid out in a structured linear manner on the north and south sides of Highfield Road. Holly Lodge is located to the northeast of the appeal site. This property is single storey and detached and does not align with the established building line of Highfield Road as it runs in an east-west manner. The property is also forward of the north-south building line associated with the western side of Oaklands Drive.

The appeal site itself is located within the southern section of the rear garden of No.26 Highfield Road and proposes access onto Oaklands Drive.

- 1.6. Oaklands Drive consists of c.16 dwellings laid out in a linear structure on the east and west sides of Oaklands Drive access road. A further access road off to the east and west is located at the midway point of Oaklands Drive.

The access road serving Oaklands Drive also serves St.Lukes Hospital to the south.

- 1.7. Oaklands Drive has a leafy sylvan setting with mature trees. To the east of the application site lies a green area with several mature trees. This area is larger than a grass verge but at time of site visit was not maintained and did not appear to be an area that is currently in use as a general recreational space. Services appear to be

within this area and correspond with identification signage (Gas Networks Ireland) on the eastern boundary wall of No.26 Highfield Road.

- 1.8. At time of site visit there was substantial on street car parking on the western side of Oaklands Drive, to the immediate east of the appeal site. This appeared informal in nature as no pay and display signage was evident. Double yellow lines were present on the opposing eastern side of the road.
- 1.9. The rear of garden No. 26 Highfield Road is substantial in size and contains mature trees. The area which is the subject of the proposed development appears partially annexed off the main garden with the partial remains of a block wall. The area is not currently in use as part of the garden is overgrown and contains garden waste with some deposits of blocks.
- 1.10. The boundary wall between the appeal site and the dwelling to the west is an exposed rubble stone wall. At time of site visit, this wall appeared, in places to be low in nature however it also appeared within the subject site that there was a build-up of garden waste which increased the ground level on the application site.
- 1.11. The boundary with No. 2 Oaklands to the south also consisted of an exposed stone wall. A green gate was noted on the southern side of the wall within the front of No. 2 Oaklands Drive however a block wall infilled this section on the northern side of the wall as it would be viewed within the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 1 no. new detached, part single storey, part two storey, 3 bedroom, domestic dwelling house within the curtilage of a Protected Structure, with 1 no. car parking space, pedestrian and vehicular access across the existing grass verge to Oaklands Drive and all associated site works, to include a new connection to the public foul sewer serving Oaklands Drive.
- 2.2. The site layout plan indicates that the site would measure c. 16.5m wide x c. 16.6m deep.
- 2.3. The proposed development as originally submitted to the Planning Authority was indicated to consist of kitchen, sitting room, 2 no. bedrooms and storage area at

ground floor level. The proposed first floor level was indicated to consist of a study/workspace and void to ground floor level.

- 2.4. The plan form of the dwelling was 'T' shaped with a contemporary roof profile both in form and finishes.

The northern elevation consisted of a asymmetrical gable profile with small opaque glazing.

- 2.5. Following a request for further information, the overall design of the dwelling was amended to a one of a traditional approach with a hipped roof profile, one that takes reference to the form of a Gate Lodge. A render finish is indicated to the northern two storey element with brick to the southern element and a selected slate finish to the roof.

The proposed first floor level is indicated to have a principal height of c. 6.2m.

- 2.6. The layout at ground floor level remained largely as per the original proposal however an additional bedroom was proposed at first floor level. The window proposed to serve this bedroom is located on the southern elevation, c. 11m off the opposing southern boundary.

3.0 Planning Authority Decision

3.1. Decision

On the 7th of May 2025 Dublin City Council issued a Notification of a Decision to grant permission for the construction of 1 no. new detached, part single storey, part two storey, 3 bedroom domestic dwelling within the curtilage of a Protected Structure subject to 11 no. conditions.

The conditions are mainly standard save for the following.

Condition No. 3 - Requires that the vehicular access onto Oaklands Drive shall be omitted and replaced with a pedestrian entrance with a maximum width of 1.2m. No gates shall open across the public footpath.

Condition No.4 – Requires that details of the materials, colours and textures of all external finishes including samples be submitted to and agreed in writing with the Planning Authority, prior to the commencement of the development. The condition further requests that consideration be given to the use of a lime render rather than a modern, cementitious render and that a traditional rough-cast/harled finish also be considered.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The final Planning Report reflects the decision to grant permission subject to conditions.

A further information request dated 25th October 2024 raised several issues as follows; in summary:

- Concerns regarding the loss of trees on the site in order to accommodate the house and sought an arborist report to include a survey of the existing trees, their condition on the subject site to provide adequate justification for the proposed removals.
- Request a landscape survey and detailed landscaping design to demonstrate that the maximum possible number of trees would be retained.
- Request a bat survey.
- Request an Architectural Heritage Impact Assessment to include an assessment of the Protected Structure. The proposed works to the boundary wall should be included in the AHIA. A conservation led methodology for the proposed work to the historic fabric of the site including the boundary wall should be provided and include for a salvage strategy for the historic material to be removed.
- Concerns regarding the proposed vehicular access opening onto Oaklands Drive, with regard to the width of the opening which is in excess of Development Plan standards, also having regard to the impact that the vehicular access would have on the Z9 zoned tree lined area on Oaklands Drive, a revised proposal is requested to consider

- (a) Omission of the vehicular access opening onto Oaklands Drive. A pedestrian access only to be permitted onto Oaklands Drive.
- (b) Submit details of the proposed boundary wall between the new dwelling and the Protected Structure.
- (c) The area of hardstanding (proposed car parking area) to be incorporated into the private amenity space for the house. Request to retain as many trees as possible.
- Concerns raised regarding the design of the proposed dwelling within the context of the streetscape and the relationship it will have with the Protected Structure on site. Request sought for a design statement to outline the rationale for the design approach. Requests sought for similar references. Details of proposed materials to be used also requested.
- Request for reconsideration to the design approach of the proposed dwelling to one of a more traditional gate lodge.

The applicant submitted responses to the further information items. Following assessment, permission was granted for the proposed development on 7th May 2025.

3.2.2. Other Technical Reports

Conservation Officer, the initial report dated 9th October 2024 recommended additional information, can be summarised as follows;

- Notes the RPS Ref. 3840 of No. 26 Highfield Road and relevant policy of the Development Plan.
- Refers to the key characteristics of the site with the front and rear being heavily planted with mature trees which provide for the sylvan setting that adds to the special architectural character of the Protected Structure. Refers also to the boundary wall which appears to be historic in addition to the tree lined Oaklands Drive.
- In general, supportive of good quality, infill housing however there are aspects of concern.
- Submitted Conservation Method Statement was not prepared by a conservation professional.

- An Architectural Heritage Impact Assessment be sought.
- In terms of impact to the protected structure, considers that the scale of the proposed dwelling would be sufficiently subservient to the protected structure.
The northern elevation given the blank design and inappropriate finishes was considered to have a negative impact on the view from the rear of the Protected Structure.
- Recommend that the north elevation be revised in terms of fenestration patterns and use of materials to achieve a softer face to the protected structure.
- The loss of trees would have a detrimental impact on the character of the protected structure and the conservation area.
- Recommend an arborist report be sought which includes a survey of the existing trees and their condition, a landscape survey and landscaping design.
- The width of the proposed vehicular entrance was considered excessive with deficient information regarding design of the gate and gate piers and overall impact to the historic boundary wall.
- Recommend that details of the proposed boundary wall between the new dwelling and the protected structure be provided. This should be in solid stone.

Following the receipt of the response to the request for additional information, an updated report dated 25th April 2025 which recommended a grant of planning permission can be summarised as follows;

- The report states that an arborists report was not included as part of the RFI but commentary on the trees along Oaklands Drive is provided in the vehicular access report.
- Notes that the vehicular entrance was requested to be omitted rather than a justification report for its retention in the development proposal was submitted.
- The revised design with a T plan and hipped roof would be more sympathetic to the built heritage and historic setting.
- Use of external finishes as set out was not considered acceptable.

Transportation Planning Division, the report dated 8th October 2024 which recommends refusal, can be summarised as follows;

- Refers to the 30km speed limit on Oaklands Drive and the area is characterised as being vehicle heavy with the presence of uncontrolled street parking on the same side as the proposed vehicular entrance.
- Should permission be granted this would result in the loss of parking spaces used to serve the local community etc.
- Notes the Z9 zoning of the lands where the proposed vehicular entrance would be located.
- There are existing street trees in the vicinity of the site and the proposed vehicular entrance would be located between two street trees. No details have been included regarding the sucker tree which is located in between the aforementioned trees. This would require to be removed if permission were to be granted.
- The width of the proposed vehicular entrance at 3.5m would exceed the stated maximum vehicular entrance width of 3.0m.
- Reference is also made to Figure 1 (Appendix 5) when considered this would result in an unacceptable width.
- Notes that consultation was undertaken with the Parks, Biodiversity and Landscape Division, the respective comments received noted that the proposed vehicular entrance would be through an existing open space area with tree planting and no tree survey was submitted. Inaccurate information regarding the tree positions. Park Services object to the application given the Z9 zoning. In addition, the vehicular access would negatively impact on existing public trees.
- A refusal is recommended on the basis of the overall width and location of the proposed vehicular entrance relative to zoning objective and the presence of trees.

Engineering Department – Drainage Division, the initial report dated 11th September 2024, can be summarised as follows;

- Drainage Planning, Policy and Development Control Section (DPPDC) states no objection to the proposed development subject to compliance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
- Drainage for the proposed development shall be designed on a completely separate foul and surface water system with a combined final connection discharging into Uisce Eireanns combined sewer system.

There is a note on the report to state that AI was received on 25th April 2025, noted, no change.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

The 3rd party submissions made to the Planning Authority in relation to the proposed development, can be summarised as follows;

- Planning application contains errors and inconsistencies with gaps in information such as ambiguity regarding the location of the access onto Oaklands Drive.
- Deficient information available on the website.
- Driveway is proposed over land that is not owned by the applicant.
- The lands where the vehicular access is proposed to be located is zoned Z9 (amenity/open space lands / green network). This area is erroneously described as being a grass verge.
- Proposed development would be contrary to Policy BHA2 of the Dublin City Development Plan 2022-2028 as no part would conserve or enhance the setting of the Protected Structure.
- Impact upon the setting of the Protected Structure and the permanent reduction of the historic curtilage including the loss of the historic boundary wall arising from the vehicular entrance.

- Visual impact on Oaklands Drive, its tree lined vista and on the setting of the Protected Structures of No. 26 and 27 Highfield Road and would be visually dominant when viewed from the rear of No. 27 Highfield Road.
- Design of the proposed dwelling is irregular and incongruous with the Protected Structures or the dwellings on Oaklands Drive.
- Impact of the proposed development relative to the alignment of building line along the western side of Oaklands Drive.
- Impact to the surrounding residential amenity such as overshadowing and over-looking.
- Contends the references to neighbouring precedents being applicable.
- Loss of material number of car parking spaces.
- Proposed development would over-load existing sewage system on Oaklands Drive.
- Felling of trees not acceptable and would be contrary to Policy G141 of the Dublin City Development Plan 2022-2028. These trees contribute to the clean air status of the wider Rathgar area.
- The proposal would destroy and damage old trees housing bats.
- Tree protection order is currently being sought for some of these trees.
- Tree placement is incorrectly represented.
- Injurious to wildlife.
- Impact to bats, no ecological consultation occurred prior to the application being submitted.
- Proposed development would have a negative impact on the environment, no environmental impact survey.

4.0 Planning History

Subject Site:

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

The relevant development plan is the Dublin City Development Plan 2022-2028 under which the appeal site is zoned Z2: Residential Neighbourhoods (Conservation Areas) with a stated objective to 'To protect and/or improve the amenities of residential conservation areas.'

The lands to the east of the site where the proposed vehicular entrance would be located is zoned Z9: Amenity/Open Space Lands/Green Network with a stated objective 'To preserve, provide and improve recreational amenity, open space and ecosystem services'

The subject property is a Protected Structure Ref: 3840, described as a house.

Policy SC11 – Promotes compact growth through the consolidation and intensification of infill and brownfield lands. This is subject to certain criteria including that the development be appropriate to the context, respects the established character and surrounding amenities in addition to having regard to the requirements of Chapter 15: Development Standards.

QHSN6 – 'Urban Consolidation' To promote and support residential consolidation and sustainable intensification through the consideration of applications for infill development, backland development, mews development, re-use/adaption of existing housing stock and use of upper floors, subject to the provision of good quality accommodation.

Policy BHA2 'Development of Protected Structures'- This policy seeks to ensure that the development will conserve and enhance protected structures and their curtilage.

Policy BHA9 'Conservation Areas' – This policy seeks to protect the special interest and character of all Dublin's Conservation Areas identified under Z8 and Z2 Zoning Objectives and denoted by the red line conservation hatching on the zoning maps. Development within these areas must contribute positively to the character and

distinctiveness and should protect and enhance the character and appearance of the area and its setting.

Policy G141 – ‘Protect Existing Trees as Part of New Development’ To protect existing trees as part of new development, particularly those that are of visual, biodiversity or amenity quality and significance. There will be a presumption in favour of retaining and safeguarding trees that make a valuable contribution to the environment.

Chapter 15 :Development Standards:

Section 15.5.2 Infill Development – This section sets out what infill development is and that infill sites are an integral part of the city’s development. Infill development should complement the existing streetscape and respect the prevailing scale, mass and architectural design of same.

Section 15.13.3 Infill/Side Garden Housing Developments – This section also promotes the development of infill housing on appropriate sites as a means of making the most efficient use of serviced residential lands. Design criteria for consideration are set out.

It is set out that all applications for infill developments will be assessed on a case by case basis.

Appendix 5

Section 4.3.2 – this section sets out that proposed vehicular entrances shall not interfere with any street trees.

Section 4.3.7 - this section sets out the design considerations for parking in the curtilage of Protected Structures, Architectural Conservation Areas and Conservation Areas.

5.2. National Guidance

5.2.1. Revised National Planning Framework (NPF)

- NPO 42: To target the delivery of housing to accommodate approximately 50,000 additional homes per annum to 2040.
- NPO 45: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill

development schemes, area or site-based regeneration, increased building height and more compact forms of development.

5.2.2. Ministerial Guidelines

Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).

Architectural Heritage Protection Guidelines for Planning Authorities. Guidance in relation to development within the curtilage of a Protected Structure is set out in Chapter 13.

5.3. Natural Heritage Designations

The proposed development is not located within or immediately adjacent to any European Site or other Natural Heritage Site.

The subject site is located c. 4.5km to the west of the Special Area of Conservation for South Dublin Bay (000210), South Dublin Bay proposed NHA and the Special Protected Area for South Dublin Bay and River Tolka Estuary (004024) and c. 11.9km to the west of the Special Area of Conservation for Rockabill to Dalkey Island (003000).

6.0 EIA Screening

The proposed development has been subject to preliminary examination for environmental impact assessment. Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment.

The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

See completed Form 1 and 2 on file.

7.0 The Appeal

7.1. Grounds of Appeal

Kieran O'Malley and Co.Ltd has submitted a third-party appeal on behalf Jonathan Boylan and Jacinta Lambert against the decision of Dublin City Council to grant permission for the proposed development. The grounds of the appeal can be summarised under the following headings

Validity of the application

- Nature and extent of the proposal as described in the statutory notices versus what is shown on the lodged plans is ambiguous.
- The location of the vehicular access, while described in the public notices are not in the red line of the application site.
- Changes made at further information stage are significant and the applicant should have been requested to re-advertise.

Setting of Protected Structure including layout, design and loss of trees

- The proposed development would seriously impinge upon and detract from the setting of the Protected Structure at no. 26 and no. 27 Highfield Road, including when viewed from the 3rd parties home at No. 27 Highfield Road.
- Permanent subdivision of the site would have consequential reduction in the historic curtilage of the property.
- The accompanying AHIA acknowledges that the front and rear gardens retain their original proportions but the assessment fails to consider the impact on the protected structure.
- The proposed vehicular access at Oaklands Drive would result in the loss of the historic fabric of the boundary wall. The Conservation Method Statement

references part of the wall being in poor condition but does not justify the permanent demolition of part of the historic wall. No opening should be permitted.

- The report of the Conservation Officer set out that the trees are important to the character of the area. The proposal includes 7 no. trees to be felled and the proposed provision of a vehicular entrance through 2 no. existing trees. These contribute to the overall setting of the protected structure and wider sylvan character of the area. To fell the trees would be detrimental to the character of the area.
- In the report of the Conservation Officer at Further Information stage, it is incorrectly set out that an arborists report was not included as part of the response. The Conservation Officer fails to consider the impact on trees.
- As per the response to the further information request, no trees on the site are proposed to be retained and the landscape plan does not include the possibility of retaining any trees regard being had to the lack of space.
- Refers to the Heritage Guidelines and BHA2 of the Dublin City Development Plan. There is no part of this development that would conserve or enhance the setting of the Protected Structure.

Design

- As originally proposed the irregular and incongruous design would have a negative visual impact upon the setting of the protected structure. The amendments made at further information stage resulted in an increase in the floor area at first floor level in addition to a revision to the roof profile. The approved two storey dwelling results in a substantially larger blank north elevation facing the protected structure.
- No changes to the finishes.
- The proposal would be visually dominant which would be accentuated with low quality materials and finishes and the low boundary wall between No. 26 and 27 Highfield Road.
- The proposed ornamental trees would not screen proposal from No. 27.

Open space and Impact on Trees

- The lands to the east are zoned Z9 'To preserve, provide and improve recreational amenity, open space and ecosystem services'. The proposed development would materially contravene this zoning objective.
- The open space to the east is not a grass verge and is an active space with mature trees that make a contribution to the landscape character.
- These trees provide screening from public vantage points at Oaklands Drive across the rear of No.'s 26-29 and from part of the historic avenue to St. Lukes Hospital.
- The proposed development would be contravene Policy G141 of the Development Plan.

Decision

- Conditions are recommended in the event a grant of permission is upheld. These include omission of the first floor or alternatively include native evergreen landscaping across the width of the site to the north, screen landscaping planting inside the western boundary of the site, omission of vehicular entrance from Oaklands Drive to be replaced with a pedestrian entrance, proposed render finish shall be painted with a colour that mitigates any visual impact.

7.2. Applicant Response

BPS Planning and Development Consultants, on behalf of Colleen Feeley have submitted a 1st party response to the 3rd party appeal. The submission makes responses to certain paragraphs of the 3rd party appeal and can be summarised as follows;

- Clarification of the locus standi of the appellant.
- The issues around challenging an expert report without a counter report prepared by an expert.

The applicant contends that the appellant has not submitted any report or assessment from any conservation specialist. The subject application has been

prepared by architects familiar with heritage properties in addition to the input from an MRIA Conservation Architect Grade 3.

- The applicant accepts each of the conditions relating to conservation associated with the grant of permission.
- The applicant acknowledges that the development would permanently reduce the curtilage of the protected structure however there is no reason why it cannot be permitted.
- The proposed dwelling is located at the end of a very long and wide rear garden and would not detract from the setting and character of protected structures. This is the opinion of the DCC Conservation Officer and that of the applicants expert.
- The issue of trees was addressed in Item 1 of the request for further information. The removal of trees from within the site will be mitigated by replacement planting. The proposal will not contravene Policy GI41.
- A condition was included to remove the proposed vehicular entrance which fully addresses the concerns regarding the lands zoned Z9.
- The response requests firstly that permission be granted for the development as granted by DCC. Consideration is requested to be given to applicants needs and whether the restoration of a vehicular entrance could be contemplated. It is requested that Condition No. 3 could be removed in this regard and *de novo* assessment of the vehicular access be undertaken
- The proposed dwelling is located a long distance from the appellants rear elevation. The dwelling has no first floor west facing windows which would offer views into the appellants property. The proposal will not overbear, or unduly overshadow the adjacent property.
- In response to the concerns regarding the validity of the application, the application was validated by Dublin City Council and was accepted.
- The appellants position as set out is unreasonable, unjustified and without basis. The applicant is encouraged by national, regional and local policies for

an infill dwelling for her future downsizing needs and that the proposal is reasonable and justified.

- The issues regarding low quality materials and finishes will be dealt with by condition.
- It is submitted that the Architectural Heritage Protection Guidelines for Planning Authorities and the DCDP as they relate to protected structures exist to guide appropriate development and not prevent it.
- As a result of the design changes, the increase in the planar area of the north elevation and the increase in the floor area is a function of the change in roof profile and not an attempt by the applicant to increase the usable floor area.

Appendix 1 attached to the first party response to the third-party appeal contains an Engineers Response to Condition No. 3 (Vehicular Access).

7.3. Planning Authority Response

- The Planning Authority request that the decision is upheld. If permission is granted that conditions regarding the payment of a Section 48 Development Contribution and naming and numbering be included

7.4. Observations

The issues raised in the observation received can be summarised as follows;

- Indicates on a Map that the lands subject to the application were directly connected to No. 2 Oaklands Drive for more than 30 years. These lands have been under disputed ownership since their recent purchase.
- Discrepancies in the publicly available planning notice and drawings.
- Delayed publication on the DCC website.
- Ambiguous locations of public notices.
- Design amendments are significant and warrant refusal.
- Felling of trees and resulting habitat loss and biodiversity and would contravene Policy GI41 of the Development Plan.

- Land proposed for vehicular entrance is listed as Z9, 'recreational land', to undertake the works as proposed is unconscionable.
- If granted, with proof of development site ownership, recommend conditions such as omission of the first floor, provide full evergreen screening to the north, south and west, prohibit removal of trees on public road or trees of B1/B2 value of the subject site, make good existing granite wall dividing new development site and No. 2 Oaklands Drive, remove vehicular access, ensure agreement to allow access for required maintenance of roof of garage, prohibit delivery or vehicular access to the site via Oaklands Drive or access Z9 designated land, commit to repair of any structural injury to the boundary walls or garage of 2 Oaklands incurred in the construction process.

7.5. Further Responses

None.

8.0 Assessment

8.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having visited the site, and having regard to the relevant local policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows;

- Scope of development
- Impact to Protected Structure and its Setting (including setting, design, loss of trees)
- Residential Impact
- Biodiversity and Habitat Loss
- Other Matters
- Water Framework Directive Screening
- Appropriate Assessment

8.2. Scope of Development

- 8.2.1. The proposed development is located within an area which is zoned for residential uses (Z2) in the Dublin City Development Plan 2022-2028 (Map Set H). The principle of the proposed development as it relates to the application site (lands outlined in red) is generally acceptable, subject to further assessment below.
- 8.2.2. As per the planning application documents, the proposed vehicular entrance would be located on lands that are zoned Z9. Concern has been raised in the appeal that this element of the proposal would materially contravene the zoning objective. I am satisfied that this issue is adequately addressed by the inclusion of Condition No.3 associated with the Notification to Grant Planning Permission which omitted the vehicular access onto Oaklands Drive. A pedestrian entrance is considered reasonable.
- 8.2.3. In the first party response to the third-party appeal, the applicant accepts the decision of the Planning Authority. However, the applicant has also set out a request for a reconsideration of the requirement to omit the vehicular access (Condition No. 3). An engineering assessment in support of this request accompanies the first party response. I acknowledge the request however, I also note that the applicant did not lodge a first party appeal against this condition and as such I am satisfied that the requirements of Condition No. 3 are valid. I consider that there are wider constraints associated with the site that do lend itself to the provision of a permanent vehicular access at this location, such as the impact to the historic wall, the presence of the existing mature trees to the east, the unacceptable erosion of an existing uninterrupted amenity area and the Z9 zoning objective are consistent with the reasons and considerations as set out in the Chief Executive Order of the Planning Authority. I am satisfied that this condition should be included in any grant of permission by the Commission.
- 8.2.4. The appeal raises concerns regarding the validity of the application. I consider that the compliance of the planning application details with the requirements of the Planning and Development Regulations 2001, as amended, is a validation matter for the consideration of the planning authority. The application was accepted as being valid. Notwithstanding the foregoing, I consider that there is sufficient information to facilitate the consideration of the case. I am satisfied that the development description of the proposal as reflected in the public notices is acceptable. It does not appear that any party was excluded from participation in the process arising from site notices.

8.2.5. The observation raises concerns that the red line includes land that is in disputed ownership between them and the applicant. I note the requirements of Section 22 of the Planning and Development Regulations 2001 (as amended), which requires the applicant to submit the written consent of the legal owners of the application site and provide documentary evidence of the owner's interest where this matter arises. Having examined the information provided by the observer, I am not satisfied that they have provided sufficient evidence that would support a claim that their consent is required for the making of this application through the carrying out the works that are proposed under this application.

I am satisfied that the applicants have provided sufficient evidence of their legal interest to make an application. Any further legal dispute is considered a Civil matter and is outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the Planning and Development Act 2000, as amended.

8.3. Impact to Protected Structure (including setting, design and loss of trees)

8.3.1. I acknowledge the concerns raised in relation to the impact of the proposed development upon the setting of the Protected Structure. The overall site associated with No. 26 Highfields Road is of a substantial size. The proposed dwelling would be sited in the rear most portion of the site with c. 26m separation distance to the main dwelling. Having regard to this separation distance together with the modest scale of the proposed dwelling in addition to the requirements of Condition No. 3 of the Planning Authority which seeks to protect the historic boundary wall, I concur with the condition of the Planning Authority and the Conservation Officer and I am satisfied that the dwelling would be subservient in scale and design relative to the sensitive setting. The focus of the existing protected structure would remain and the proposed development would therefore not unduly impact the historic setting to the detriment.

8.3.2. Furthermore, I consider that the concerns raised in relation to the external finishes have also been adequately addressed by the Planning Authority in Condition No.4. I would recommend that a similar condition be included.

8.3.3. As per the Arborists assessment, 8 no. trees are proposed to be removed.

- 8.3.4. Seven of these trees are within the red line of the application site. One Grislenia Shrub (G001) proposed to be removed is located outside of the application site within the grass verge. The removal of this tree will be discussed under Section 8.6.
- 8.3.5. Of the seven trees within the site, one tree has a U value while the other trees have B Values. I acknowledge the concerns raised and I also note the initial report of the Conservation Officer in respect of tree loss. I also note that the report of the Conservation Officer in the assessment of the response to the request for additional information set out that no arborists report had been submitted. The report provided no further commentary by the Conservation Officer in relation to the loss of the trees and the associated resulting impact upon the curtilage and setting of the Protected Structure the loss would have. The report also recommended a grant of permission.
- 8.3.6. In my consideration of this issue, I acknowledge Section 13 of the Architectural Heritage Protection Guidelines for Planning Authorities as it relates to features within the curtilage of a protected structure that can make a significant contribution to the character of that structure. I refer to the Architectural Heritage Impact Assessment submitted as part of the response to the request for additional information. This report submits that the gardens of the house are typical of its archetype in terms of size however the original paths and layouts are not intact. The report further sets out that the primary remaining historic elements of the garden are the boundary walls. I also refer to the historic mapping included within this report which indicates the trees along Oaklands Drive but not the trees indicated for removal within the application site. I also note that the Ordnance Survey Map (Surveyed between 1863 and 1924) indicates the presence of trees within the central portion of the rear garden of No.26 Highfield Road which would be to the north of the current application site boundary. The existing trees located to the north of the red line of the application site and centrally located within the remaining garden of No. 26 are not proposed to be removed.
- 8.3.7. Considering the above assessment, I acknowledge the loss of trees however having regard to the information available, the nature of the proposed site layout in addition to the trees being retained and proposed planting, I am satisfied that their removal would not be significant or detrimental to the setting of the Protected Structures (No. 26 and 27 Highfield Road).

Additionally, it is my opinion that the trees within the streetscape along Oaklands Drive are the primary contributors to the areas characteristic sylvan setting. These trees will be retained and will remain unaffected by the proposed development. I therefore do not consider that the proposed development would be contrary to Policy GI41 of the development plan.

- 8.3.8. I do not consider that trees or landscaping should be solely relied upon to screen a development from view. A development should be appropriately designed to integrate appropriately in its own right. In this regard, I have considered the characteristics of the site and surrounding area and submit that the landscaping proposed is suitable for the site and would aid in the subordination of the proposed development into the established setting.
- 8.3.9. Having regard to the above assessment, as the proposal relates to the historic setting, I also consider that the proposed development, being adjacent to the modern dwellings of Oaklands Drive would integrate appropriately into the streetscape without undue impact to the visual amenities of the area.
- 8.3.10. Overall, I am satisfied that the proposed development by reason of design, scale, mass and height, would be sensitively sited in a manner that would accord with Policy BHA2 and BHA9 of the Dublin City Development Plan 2022-2028.

8.4. Residential Impact

- 8.4.1. Concerns raised include that of residential impact of the proposed development in terms of visual intrusion and impact upon privacy associated with the adjoining dwelling, No. 27 Highfields Road. I acknowledge that the development would represent a new intervention into an established rear garden setting which will naturally appear visually different. However, the location of the proposed dwelling would be to the southeast of the rear elevation of No. 27, being obliquely located within view rather than directional in view. I also submit that there is further mature planting within the garden of No.26 and that of No. 27 which would provide a visual screen from view from no. 27 Highfield Road and would ameliorate for any significant visual intrusion that would constitute an undue detrimental visual impact.
- 8.4.2. I also submit that the modest design and layout of the proposed dwelling in addition to the orientation of the site relative to the path of the sun, together with the size of the rear garden of No. 27 Highfield Road would mitigate for undue overshadowing.

8.4.3. I would also consider that the relationship of the subject site with that of No. 2 Oaklands Drive would ensure that no undue impact would arise in the form of over-shadowing or overbearance impact.

8.4.4. I am also satisfied that no undue over-looking issues would arise.

8.4.5. In terms of residential amenity for the future occupants, I would also note that the requirement to remove the vehicular entrance in addition to the height of the eastern boundary wall would also provide additional area to the front of the dwelling which would enable a more appropriate usable area of private amenity space.

8.5. Biodiversity and Habitat Loss

8.5.1. The observation raised concerns regarding the felling of trees which represents habitat loss and would contravene Policy GI41 of the development plan.

8.5.2. As per the Arborists report, I note that the proposed development would necessitate the removal of 8 no. trees. I acknowledge the loss of the trees however I also note that the applicant has proposed a landscaping scheme which will have a compensatory effect and in this regard, I do not consider that tree loss would be unduly significant.

The Planning Authority sought a Bat Survey as part of a request for further information. I note that the survey concluded that the site potentially offers opportunities for bat foraging but there is an absence of Potential Roost Features (PRF). Furthermore, there is no evidence that bats are currently present on the site and that the mature trees lack PRF's and that immature trees are unsuitable as roost locations. The observations are acknowledged however no further survey undertaken by a suitably qualified person has been submitted to the contrary and I am satisfied with the findings of the survey as submitted to the Planning Authority on 10th April 2025.

8.6. Other Matters

8.6.1. I note the condition attached by the Planning Authority which required the omission of the vehicular entrance to be replaced with a pedestrian entrance only, in order to protect the historic boundary walls. I remain of the opinion that this condition is valid however I would also recognise the constraints of the site and have concerns regarding construction access for the development. In this regard I would consider that the manner of construction access be agreed as part of the Construction Environmental Management Plan. To facilitate such access there may be a risk to

G001 'Griselinia' which is located within the grass verge. I acknowledge the requirements of the Dublin City Development Plan (Section 4.3.2 Appendix 5) in respect of impact to street trees however I would draw the Commissions attention to the Arborists description of this shrub being of poor overall physiological and structural condition and being a spurious random plant, non-native and unmanaged. Given the location of this shrub outside of the red line of the application site, the applicant will be required to engage with Dublin City Council with regard to construction access.

- 8.6.2. Furthermore, I would also recommend that the construction access arrangements would be required to be designed and supervised by a suitably qualified Conservation Architect with an appropriate Method Statement to be submitted and agreed in writing with the Planning Authority prior to the commencement of the development.

9.0 Water Framework Directive

- 9.1. The subject site is located at a site to the rear of No.26 Highfield Road, Rathgar, Dublin 6, D06 A7Y8, also sharing a corner with Oaklands Drive. The subject site is c. 669m to the north west of IE_EA_09D010900, Dodder_050 and 4.4km to the west of IE_EA-090_0000, Dublin Bay.
- 9.2. The proposed development comprises permission for the construction of 1 no. detached part single, part two storey, 3 bedroom domestic dwelling house within the curtilage of a Protected Structure, with 1 no. car parking space in addition to pedestrian and vehicular entrances.
- 9.3. No water deterioration concerns were raised in the planning appeal.
- 9.4. I have assessed the development seeking permission and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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 surface and/or groundwater water bodies either qualitatively or quantitatively.
- 9.5. The reason for this conclusion is as follows:

- Nature of works e.g. small scale and nature of the development
- Location-distance from nearest Water bodies and/or lack of hydrological connections.

9.6. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

10.0 AA Screening

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

The subject site is located within an established urban area, c. 4.5km to the west of the Special Area of Conservation for South Dublin Bay (000210) and the Special Protected Area for South Dublin Bay and River Tolka Estuary (004024) being c.11.9km to the west of the Special Area of Conservation for Rockabill to Dalkey Island (003000).

10.2. The proposed development comprises the construction of 1 new detached, part single storey, part two storey 3 bedroom domestic dwelling house within the curtilage of a Protected Structure, with 1 no. car parking space, pedestrian and vehicular access across the existing grass verge to Oaklands Drive and all associated site works to include a new connection to the public foul sewer serving Oaklands Drive.

10.3. Save for the concerns raised in relation to biodiversity and habitat loss, no further nature conservation concerns were raised in the planning appeal.

10.4. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

10.5. The reason for this conclusion is as follows

- The nature of the works
- The distance from the nearest European site and the lack of connections.

- 10.6. I conclude, 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.
- 10.7. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000, as amended) is not required.

11.0 Recommendation

- 11.1. I recommend that planning permission be granted for the proposed development subject to the conditions set out below.

12.0 Reasons and Considerations

- 12.1. Having regard to the location of the site on residentially zoned lands, and the design and subservient scale of the proposed dwelling together with the Policies and Objectives of the Dublin City Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be injurious to the setting of Protected Structures, would integrate appropriately within the established streetscape without undue impact to the visual and residential amenities in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 10th day of April 2025, 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) The proposed vehicular entrance onto Oaklands Drive shall be omitted and replaced with a pedestrian entrance no greater than 1.2 metres in width. No gates shall open across the public footpath.

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 visual amenity.

3. Finishes to the proposed dwelling shall include a lime render with a traditional rough cast/ harled finish. Details of the materials, colours and textures of all the external finishes shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of the development.

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

4. All works shall be carried out in accordance with best conservation practice and the Architectural Heritage Protection Guidelines for Planning Authorities (2011) and Advice Series issued by the Department of the Environment, Heritage and Local Government. Any repair works shall retain the maximum amount of surviving historic fabric in situ. Items to be removed for repair off site shall be

recorded prior to removal, catalogued and numbered to allow for authentic reinstatement.

Reason: In order to protect the original fabric, character and integrity of the Protected Structure and to ensure that the proposed works are carried out in accordance with best conservation practice.

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

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

Reason: To prevent flooding and in the interests of sustainable drainage.

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

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

8. A detailed Construction Environmental Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The following shall be included.

- (a) The plan shall include details for construction access to serve the proposed development. Such access arrangements shall be designed and supervised by a suitably qualified Conservation Architect.

Within three months of the completion of the development, the construction access shall be removed, the wall reinstated and the pedestrian entrance provided as per the requirements of Condition No.2.

- (b) The plan shall also include arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety.

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

Reason: In order to safeguard the residential amenities of property in the vicinity.

10. 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 Coimisiún Pleanála to determine the proper application of the terms of the Scheme.

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

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Carol Hurley
Planning Inspector

27th August 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-322658-25		
Proposed Development Summary	Construction of 1 detached part single, part two storey dwelling within the curtilage of a Protected Structure, with one car parking space, vehicular and pedestrian entrances and sharing a corner with Oaklands Drive.		
Development Address	26 Highfield Road, Rathgar, Dublin 6 D06 A7Y8		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes X	Tick if relevant and proceed to Q2.
		No	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.	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		State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	X	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.	Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.	Preliminary examination required (Form 2)

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

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP-322658-25
Proposed Development Summary	Construction of 1 detached part single, part two storey dwelling within the curtilage of a Protected Structure, with one car parking space, vehicular and pedestrian entrances and sharing a corner with Oaklands Drive.
Development Address	26 Highfield Road, Rathgar, Dublin 6 D06 A7Y8
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
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).	Infill development in character with the surrounding pattern and character of development.
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).	The subject site is zoned and urban in nature adjacent to residential lands. The existing dwelling within the subject site is a Protected Structure. The proposed development would result in the loss of trees from within the rear garden of the subject site however this loss is not considered to be significant in respect of the setting of the Protected Structure or the surrounding streetscape. The development includes for landscaping and replacement planting.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration,	Having regard to the characteristics of the development and the sensitivity of its location, it is not considered that significant effects upon the environment would arise.

cumulative effects and opportunities for mitigation).	
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	
There is a real likelihood of significant effects on the environment.	

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)