



An
Coimisiún
Pleanála

Inspector's Report

PL-500718-DN-26

Development

Retention: Storage container to provide ancillary storage with external cladding to the container, closure of door & window opening and all associated site works.

Location

Victoria Lane, to rear of & including
No. 1 Hollybank Road, Dublin 9

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

WEB5625/25

Applicant(s)

Martin Tynan.

Type of Application

Retention permission.

Planning Authority Decision

Refusal

Type of Appeal

First Party

Appellant(s)

Martin Tynan.

Observer(s)

1. Niall O Laoghaire & Tara Deehan
2. Patricia McKenna

Date of Site Inspection

20th March 2026.

Inspector

R Taylor

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1.0 Site Location and Description

- 1.1. The appeal site is located to the rear of a residential building at 1 Hollybank Road within a suburban area of Dublin. The site has a stated area of 0.002 hectares, broadly rectangular in shape with level topography, and orientated on a north/south alignment. It comprises a black metal container storage building, for which permission is sought in this appeal, with supporting plans indicating stated dimensions of 5.38m in length, 2.58m in height, with width of 4.13m along the southern boundary narrowing to 2.61m along the north. The site boundaries are undefined. The site abuts a public alleyway known as Victoria Lane to the east and north which accesses onto Botanic Avenue further to the north of the appeal site facilitating servicing of surrounding buildings.
- 1.2. 1 Hollybank Road includes rear extensions and is located immediately adjacent to the south with the rear garden of an adjacent residential building 3 Hollybank Road immediately adjacent to the west with the main building to the southwest. The common boundary between these sites comprises the gable wall of a single storey garage building finished in render with timber access doors adjacent to the Lane. There are further residential buildings, associated plots, and similar garage buildings to the west and north of the appeal site. To the east are the rear curtilages of a row of commercial buildings broadly single storey in height and finishes comprising a mix of brick and render, several of which have large metal access doors directly adjacent to Victoria Lane. Front elevations of these buildings are orientated onto Drumcondra Road Lower which traverses broadly north/south and parallel to the appeal site. These buildings vary in height between 2 and 4 storeys.

2.0 Proposed Development

- 2.1. The proposed development comprises of the following:
- Retention permission for a commercial storage container to provide ancillary storage to Kennedy's Public House adjoining the site on Victoria Lane.
 - External cladding to the container & closure of door ope; & Closure of 1 no. rear window ope to No. 1 Hollybank Road.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 Retention permission was refused by the Planning Authority (PA), for the following reason:

The proposed retention of the existing storage container and the proposed external cladding and closure of opes would materially contravene the Z2 zoning objective of the site which is “To protect and/or improve the amenities of residential conservation areas.” The proposed development comprising of a non-conforming use would result in unacceptable negative impacts on the visual amenities of the residential conservation area and would be contrary to Policy BHA9 which aims to protect and enhance the character and appearance of the residential conservation area and its setting, wherever possible. The proposed development would set an undesirable precedent for similar development and would therefore be contrary to the proper planning and sustainable development of the area.

3.1.2 The signed decision is dated 9th January 2026.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- In recommending a refusal of permission a single planning report notes the following:
- 3852/23 Permission refused for temporary storage of container (21.96sqm) at Victoria Lane rear on 1 Hollybank Road, Dublin 9 comprising the retention of a temporary storage container (for a period up to 3 years) to facilitate general storage space for Kennedy's Public House adjoining the subject site on Victoria Lane.
- 2 no. submissions received during the statutory period raising following issues:
 - Development remains wholly unacceptable within a Z2 residential conservation area
 - Proposed cladding and closure of a window do not mitigate the visual and residential impacts

- Proposal does not adequately address the previous reasons for refusal
- Would set an undesirable and damaging precedent
- Interference with other residents and businesses
- The site is zoned Z2 (Residential Conservation Areas) with a land use zoning objective 'To protect and/or improve the amenities of residential conservation areas'. The principal land use in Z2 areas is housing and a limited range of other uses are either permissible or open for consideration. Public house is not one of these uses nor is storage ancillary to a public house or any storage.
- Concerns regarding impact on visual amenity.
- The storage container protrudes onto the laneway as it is not located behind any boundary wall, also creates clutter in the laneway with associated items such as kegs lying outside the structure on the path adjacent to the laneway.
- With regards to non-conforming uses the Planning Authority would only consider such uses favourable if improvements are demonstrated and where the amenities of premises in the vicinity are not adversely affected. The supporting Planning Report states the window of No. 1 Hollybank Road adjacent is to be blocked up to ensure that existing residential and visual amenities are not impacted by the use of and/or the retention of this structure. A letter of consent has been provided by the owner/occupier of this property.
- Though commercial in use, the proposed finishes comply with Policy BHA9 and Section 15.15.22 of the Dublin City Development Plan 2022 – 2028 regarding development in conservation areas (Z2 Zone).
- The proposed works comprising of external cladding, closure of a door ope and closure of a rear window ope to No. 1 Hollybank Road are inadequate mitigation measures to appropriately visually conceal the structure. The proposed 'improvements' or mitigation do not address the previous reasons for refusal. The retention of the structure and the proposed works materially contravene the Z2 zoning objective and Policy BHA9.
- Kennedy's Public House is subject to a Servicing and Operations Management Plan (as agreed under ref. 5020/22), it appears that this Plan is not being operated in

accordance with requirements / condition. The subject site is required for storage of refuse bins as part of this management plan. Materials associated with the public house appear to be stored on the public laneway of Victoria Lane, including refuse bins and kegs. This is impacting on the operation of the laneway and Transportation request further information to address these issues.

3.2.2. Other Technical Reports

- Transportation Planning Division: Requests further information (re: management plan issues, summarised above).
- Drainage Division: No objection, subject to Condition – drainage code of practice.
- Environmental Health Section: No objection, subject to conditions:
 - Deliveries between 07:00am – 18:00pm;
 - Noise (if storage includes/requires refrigeration plant/machinery).

3.3. Prescribed Bodies

- None.

3.4. Third Party Observations

- None

4.0 Planning History

4.1. The report refers to the following planning history:

4.2. 3852/23 Permission refused for temporary storage of container (21.96sqm) at Victoria Lane rear on 1 Hollybank Road, Dublin 9. The development consists of the retention of a temporary storage container (for a period up to 3 years) to facilitate general storage space for Kennedy's Public House adjoining the subject site on Victoria Lane.

Reasons for Refusal:

4.2.1 The use of the container to be retained, i.e. general storage use ancillary to a public house, is a use that is neither 'Permissible' nor 'Open for Consideration' in a Residential Neighbourhood (Conservation Area) – Zone Z2. The proposed

development would, therefore, materially contravene the provisions of Section 14.7.2 of the Dublin City Development Plan 2022 – 2028 and be contrary to the proper planning and sustainable development of the area.

- 4.2.2 The retention of the container immediately adjacent to, and blocking a window of, 1 Hollybank Road, a residential property, in its former rear garden and in a Z2 residential neighbourhood (conservation areas) as per the zoning objective under the Dublin City Development Plan 2022 - 2028 would materially contravene the accompanying zoning objective 'to protect and/or improve the amenities of residential conservation areas'. It would have unacceptable impacts on the residential amenity of that property. Furthermore, the industrial and commercial character of the structure does not comply with the standards set out in Policy BHA9 or Section 15.15.22 of the Dublin City Development Plan 2022 – 2028 regarding development in conservation areas (Z2 Zone). The proposed development to be retained would, therefore, seriously injure the amenities of property in the vicinity and be contrary to the proper planning and orderly sustainable development of the area.

Refused Retention Permission 24 Jul 2023.

Adjacent Site:

- 4.3 Authority Case Reference: 3142/20 Kennedys Public House, 132, 134 Lower Drumcondra Road, Drumcondra, Dublin 9, D09 A4P8. Retention of rear bar area and associated toilet accommodation at ground floor level and permission to install a timber screen wall. An Coimisiún Pleanála - Case reference: PL29N.310877 Decision Grant permission with revised conditions 29/11/2021.
- 4.4 Application reference: 4321/22: Kennedy Public House, 132 / 134 Lower Drumcondra Road, Drumcondra. Retention Permission for the development consists of retention of an existing 1no. fire escape door and 1no. roller shutter door. Both doors are situated on the rear west elevations along Victoria Lane. Refuse Retention Permission 19 Aug 2022.
- 4.5 Application reference: 5020/22: Kennedy's Public House, 132 & 134 Lower Drumcondra Road, Drumcondra. Retention Permission: the development consists of the retention of the existing 1No. fire escape door and 2No. roller shutter doors. All

doors are situated on the rear west elevation along Victoria Lane. Granted subject to conditions on Appeal 04 Apr 2024 Reference: ABP-317688-23.

Condition 4 states:

The proposed use shall be carried out in accordance with the Servicing and Operations Management Plan, submitted on the 13th June 2023, save for the following changes:

- i. The loading area indicated along Botanic Avenue shall be omitted (this is a public footpath).
- ii. There shall be no permanent storage of waste bins and kegs on the public road.
- iii. Waste bins and kegs shall only be stored temporarily on public road prior to collection / delivery. The temporary placement of such bins and kegs shall not impede pedestrian / cyclist movement within the vicinity of the site.

All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Reason: in the interests of neighbouring residential amenity, and in the interest of traffic safety, including the safety of pedestrians.

5.0 Policy Context

5.1. Development Plan

The Dublin City Development Plan 2022-2028 is the operative plan for the area. It was adopted at a Special Council meeting on the 2nd of November 2022 and came into effect on the 14th of December 2022.

The appeal site is located within Zone Z2:

14.7.2 Residential Neighbourhoods (Conservation Areas) – Zone Z2 Land-Use Zoning Objective Z2: To protect and/or improve the amenities of residential conservation areas.

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. Chapters 11: Built Heritage and Archaeology, and Chapter 15: Development Standards, detail the policies and objectives for residential conservation areas and standards, respectively.

Z2 – Permissible Uses: Bed and breakfast, buildings for the health, safety and welfare of the public, childcare facility, embassy residential, guesthouse, home-based economic activity, medical and related consultants, open space, public service installation, residential.

Z2 – Open for Consideration Uses: Allotments, assisted living/retirement home, beauty/grooming services, Build to Rent residential, café/tearoom, civic and amenity/ recycling centre, community facility, craft centre/ craft shop, creative and artistic enterprises and uses, cultural/recreational building and uses, cultural, delicatessen, education, embassy office, enterprise centre, funeral home, hotel, laundromat, live-work units, office, place of public worship, primary health care centre, residential institution, restaurant, shop (local), sports facility and recreational uses, student accommodation, veterinary surgery.

Chapter 14: Land-use Zoning

14.3.1 Permissible and Non-Permissible Uses

There will be a presumption against uses not listed under the permissible or open for consideration categories in zones Z1, Z2, Z6, Z8, Z9, Z11, Z12 and Z15. Other uses will be dealt with in accordance with the overall policies and objectives in this plan.

14.5 Non-Conforming Uses

Throughout the Dublin City Council area there are uses that do not conform to the zoning objective for their area...When extensions to, or improvements of, premises accommodating such uses are proposed, each shall be considered on their merits, and permission may be granted where the proposed development does not adversely affect the amenities of premises in the vicinity and does not prejudice the proper planning and sustainable development of the area.

14.7.1 Sustainable Residential Neighbourhoods – Zone Z1

Land-Use Zoning Objective Z1: To protect, provide and improve residential amenities.

14.7.4 Key Urban Villages and Urban Villages – Zone Z4

Land-Use Zoning Objective Z4: To provide for and improve mixed-services facilities.

General Principles include Built Environment: Ensure the creation of high-quality, mixed-use urban districts with a high quality public realm, distinctive spatial identity and coherent urban structure of interconnected streets and child-friendly, accessible public spaces and urban parks. Development should have regard to the existing urban form, scale and character and be consistent with the built heritage of the area.

Z4 – Permissible Uses: includes public house as a permissible use.

Zone Z4: Key Urban Villages/Urban Villages

CCUV35: Night Time Economy: To support and facilitate evening / night time economy uses that contribute to the vitality of the city centre and that support the creation of a safe, balanced and socially inclusive evening / night time economy.

CCUV36: New Development: To support uses that would result in the diversification of the evening and night time economy where there is little impact on the amenity of adjoining or adjacent residential uses through noise disturbance and where there are no negative cumulative impacts in terms of other night-time economy uses in the area.

Chapter 11 Built Heritage and Archaeology

BHA9 Conservation Areas

To protect the special interest and character of all Dublin's Conservation Areas – identified under Z8 and Z2 zoning objectives and denoted by red line conservation hatching on the zoning maps. Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting.

2. Re-instatement of missing architectural detail or important features.
3. Improvement of open spaces and the wider public realm and reinstatement of historic routes and characteristic plot patterns.
4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area.
5. The repair and retention of shop and pub fronts of architectural interest.
6. Retention of buildings and features that contribute to the overall character and integrity of the Conservation Area.
7. The return of buildings to residential use.

Changes of use will be acceptable where in compliance with the zoning objectives and where they make a positive contribution to the character, function and appearance of the Conservation Area and its setting. The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use applications, and will promote compatible uses which ensure future long-term viability.

11.5.3 Built Heritage Assets of the City

Z2 and Z8 Zonings and Red-Hatched Conservation Areas

Whilst these areas do not have a statutory basis in the same manner as protected structures or ACAs, they are recognised as areas that have conservation merit and importance and warrant protection through zoning and policy application.

The special interest/value of Conservation Areas lies in the historic and architectural interest and the design and scale of these areas. Therefore, all of these areas require special care in terms of development proposals. The City Council will encourage development which enhances the setting and character of Conservation Areas.

As with Architectural Conservation Areas, there is a general presumption against development which would involve the loss of a building of conservation or historic merit within the Conservation Areas or that contributes to the overall setting, character and streetscape of the Conservation Area. Such proposals will require detailed justification from a viability, heritage, and sustainability perspective.

15.15.2.2 Conservation Areas

All planning applications for development in Conservation Areas shall:

- Respect the existing setting and character of the surrounding area.
- Be cognisant and/ or complementary to the existing scale, building height and massing of the surrounding context.
- Protect the amenities of the surrounding properties and spaces.
- Provide for an assessment of the visual impact of the development in the surrounding context.
- Ensure materials and finishes are in keeping with the existing built environment.
- Positively contribute to the existing streetscape Retain historic trees also as these all add to the special character of an ACA, where they exist.

15.4 Key Design Principles

15.4.2 Architectural Design Quality

Key principles (include):

- The character of both the immediately adjacent buildings, and the wider scale of development and spaces surrounding the site.
- The existing context and the relationship to the established pattern, form(s), density and scale of surrounding townscape, taking account of existing rhythms, proportion, symmetries, solid to void relationships, degree of uniformity and the composition of elevations, roofs and building lines. The scale and pattern of existing streets, squares, lanes and spaces should be considered.
- The existing palette of materials and finishes, architectural detailing and landscaping including walls, gates, street furniture, paving and planting.
- The suitability of the proposed design to its intended landuse and the wider land-use character of the area, along with its relationship with and contribution to the public realm.
- The context and orientation in relation to daylight, sunlight and overshadowing and environmental performance including climate impacts such as downdraft or wind tunnelling.

15.5 Site Characteristics and Design Parameters

15.5.7 Materials and Finishes

The materials and finishes of a building have the ability to shape the architectural design quality and distinctiveness of an area. Materials and finishes should be selected to ensure longevity throughout the lifetime of the development. All developments will be required to include details on the maintenance and management of the materials proposed as part of the planning application. As such, Dublin City Council will require developments:

- To ensure materials and finishes complement the existing pallet of materials in the surrounding area.
- Promote durability to ensure a good visual appearance over time.
- The design and layout of buildings, together with the robustness of materials used in their construction, should be such as to discourage graffiti, vandalism and other forms of anti-social activity.
- To support the use of structural materials that have low to zero embodied energy and CO2 emissions as well as the use of sustainably sourced building materials and the reuse of demolition and excavated materials.

15.11.3 Private Open Space: Private open space for houses is usually provided by way of private gardens to the rear of a house. A minimum standard of 10 sq. m. of private open space per bedspace will normally be applied.

15.14.12 Night Clubs/Licenced Premises/Casinos/ Private Member Clubs

There is a need to strike an appropriate balance between the role of these entertainment uses in the economy of the city and (include) the following:

- To protect the amenities of residents from an over-concentration of late night venues.
- Noise emanating from and at the boundaries of these establishments are issues which will need to be addressed in planning applications for such establishments. Noise insulation and reduction measures, especially relating to any mechanical ventilation or air-conditioning, will be required to be submitted with any such planning application.

15.18.9 Noise: Operational noise should be assessed as part of the planning application to determine whether the proposed use of the development will impact on the ambient noise levels of the surrounding environment. Appropriate sound proofing and noise mitigation measure should be provided where necessary.

Chapter 5: Quality Housing and Sustainable Neighbourhoods

QHSN14: High Quality Living Environment: To support the entitlement of all members of the community to enjoy a high quality living environment and to support local communities, healthcare authorities and other bodies involved in the provision of facilities for groups with specific design/ planning needs.

QHSN37 Houses and Apartments: To ensure that new houses and apartments provide for the needs of family accommodation with a satisfactory level of residential amenity in accordance with the standards for residential accommodation.

5.2. Natural Heritage Designations

The site is not within or immediately adjacent to a designation. The closest Natural Heritage designations are as follows:

004024 - South Dublin Bay and River Tolka Estuary SPA c 2.2km SE

004006 - North Bull Island SPA c. 4.98km E

000206 - North Dublin Bay SAC c. 7.98km E

Proposed Natural Heritage Area:

002103 - Royal Canal c. 0.67km S

000206 - North Dublin Bay c. 1.85km SE

002104 - Grand Canal c. 2.84km SE

000178 - Santry Demesne 3.46km N

6.0 EIA Screening

6.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is

also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of this report.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal are submitted on behalf of the appellant by BPS. This includes appendices comprising the supporting application planning report and Architecture Approach report prepared by Kevin Lynch Architects.

7.1.1 Zoning:

Section 14.5 states non-conforming uses will be considered on their merits and may be granted where the development does not adversely affect amenity and prejudice the proper planning and sustainable development of the area. The proposal complies with this requirement.

The planning report is considered by the appellant to be unreasonable. The public house needs storage and is a community facility which benefits the area. DCC are unwilling to engage on an appropriate solution.

Development management should facilitate, not prevent development as advocated by Government policy including the National Planning framework and Office of the Planning Regulator guidance.

Utilities can install minor structures in support of a necessary use in visible locations. The client is being penalised in trying to find a storage solution. It is an architect designed, clad structure sited on a piece of land, previously a no-man's land, subject to anti-social behaviour, and dumping ground for waste and debris resulting in an eyesore. The structure will not cause any environmental impacts and not overbear/overshadow or overlook any property.

Ancillary developments to listed acceptable uses within zoning Z2 can be facilitated, however DCC do not accept a modest and clad container for a public house. The public house use is not different to a restaurant, which is listed as an acceptable use within the zoning.

The DCDP supports public houses under all other zonings. There are many instances where a public house adjoins a different zoning and the boundary between zonings is allowed to be flexible.

Dwellings in close proximity can carry out extensions and sheds under exempted development. It is unjust that the proposal is considered unacceptable.

7.1.2 Principle:

There appears to be prejudice against a container in this location. The report does not state what is wrong with the design. Photographic examples of award-winning container designs are cited. The assessment by the PA repeats the previous decision. The PA decision to not request further information is unjustified given the trend towards reuse of containers. A hotel development in Wicklow at harbour quays comprising containers was approved. There should be no 'in principle' prejudice against containers.

7.1.3 Design and Amenity:

The site is located in an area where many properties have sheds which are ad hoc/piecemeal. Cladding is proposed to minimise visual impacts and the structure would have appearance of a shed, consistent with context. Removal of vegetation would enhance the curtilage and setting. The design and materials are compliant with policy BHA9. A condition could be attached by the Commission to amend the proposed materials if considered appropriate.

The proposal is minor development and causes negligible impacts to the lane. This must be weighed against the benefits to the public house structure which has insufficient servicing/storage areas due to historic design/layout. The associated activity and CCTV benefit the lane providing safety and security for residents/reducing anti-social behaviour.

The closure of the window of 1 Hollybank Road has agreement from the property owner. This was the basis for previous claims of impacts on amenity. The design addresses previous PA concerns.

Temporary permission for 3 years was sought previously. The refusal was interpreted as the PA seeking a permanent solution. Should the Commission be minded to grant a temporary permission, a minimum period of 3 years is requested.

7.1.4 Precedent:

The proposal is a standalone development. There is nowhere in the locality where similar development could take place. No precedent would occur.

7.1.5 Access, Movement, Parking:

The report refers to servicing. The appellant operates in accordance with the agreed Servicing and Operations plan. The related matters are not relevant to the proposal. The Transport Section information request for a revised management plan/issues was not facilitated by the PA. The Commission could deal with this matter by condition if considered necessary.

7.1.6 Material Contravention:

The proposal is 21.96sqm and wholly ancillary to an established use and does not represent a material contravention. It does not support a separate business. A condition could be attached to secure the ancillary use.

The proposal is sited on a back lane and mostly out of public view. It does not materially affect the external appearance of the property or Conservation Area.

Byrne v An Bord Pleanála (2020) judicial review is relevant. The proposed 2 storey extension and beer garden were ancillary and did not constitute a material change of use. Claims of zoning breaches were rejected. The decision was deemed proportionate. Conditions balanced the pubs expansion with local resident's rights. One condition relates to screening. The court found that some ancillary structures require permission, and this is accepted by the applicant, and they are seeking permission for a second time.

7.2. **Planning Authority Response**

There is a single response from the Planning Authority. It requests that the decision to refuse permission is upheld. If permission is granted, a condition for development contributions is requested.

7.3. **Observations**

7.3.1 2 observations have been submitted from local residents. Site photographs are appended to one of the observations. Issues raised are summarised as follows:

7.3.2 Z2 zoning objective is clear. Established residential character and incremental encroachment are tightly controlled for good reason.

- 7.3.3 Ancillary status of the proposal does not override the zoning. If approved, it would establish that commercial premises adjoining Z2 lands may extend operational infrastructure provided that it is ancillary. This would represent a shift in how zonings are applied, particularly in older inner suburban areas where mixed zoning patterns are common. If approved, this case could be relied upon for future comparable cases and erode the zoning. There are many parts of the city with similar zoning circumstances. The PA conclusion of material contravention of the zoning and section 14.7.2 of the plan and precedent is a proper planning assessment.
- 7.3.4 Revised design measures may address visual/amenity concerns in the previous decision which was not appealed. However, design mitigation cannot overcome a non-conforming use or alter the planning balance.
- 7.3.5 The planning history of the site is discussed, including reference to enforcement issues/unauthorised status, and approach by the developer to the process.
- 7.3.6 Ownership of the site is unclear. The developer included a permission letter from the owner of 1 Hollybank Road with the application.
- 7.3.7 The proposal comprises the conversion of a residential rear garden and not part of the planning unit of the public house. The site is separated from the public house and therefore requires daily use of the public laneway. This is not in the interests of/impact on residents and adjacent businesses impacting access and enjoyment/amenity of their properties.
- 7.3.8 The Developer may have overdeveloped the public house beyond what it can sustain.
- 7.3.9 The applicants' comments regarding Plan support for public houses is a misrepresentation. There are no specific policies for public houses. The issue relates to inappropriate development in a residential neighbourhood Conservation Area – Zone Z2.
- 7.3.10 Developer comments comparing the proposal to residential sheds, ancillary structures, and examples of re-use of containers is an unreasonable comparison/inappropriate justification and not relevant.
- 7.3.11 Appended site photographs include the laneway and are referred to as evidence/context of the developer operating business activities as an extension of business operations. It is acknowledged these issues is not directly relevant to this appeal.

7.4. Further Responses

None.

8.0 Assessment

8.1. Having examined the application details and all other documentation on file, including the submission received in relation to the appeal, site inspection and having regard to the relevant policies, objectives and guidance, the main issues in determining this appeal are as follows:

- a) Principle;
- b) Design and Impact on character;
- c) Amenity impacts;
- d) Precedent;
- e) Access and operation of Victoria Lane;
- f) Other issues;
- g) Material Contravention.

- a) Principle;

8.2. There is disagreement between the parties on whether the proposal is acceptable in principle.

8.3. The appeal site is located within Zoning Z2 Residential Neighbourhoods (Conservation Areas). 14.7.2 in Chapter 14 of the Plan states the objective is “to protect and/or improve the amenities of residential conservation areas”. It goes on to provide a list of “permissible uses” and “Open for Consideration Uses” at 14.3.1 which also states that other uses will be dealt with in accordance with the overall policies and objectives in this plan. All boundaries of respective zonings and associated permissible/for consideration uses would have been considered as part of the Plan process, informed *inter alia*, by existing uses, function, and architecture. This takes

primacy in the consideration of proposed uses within any zoning and not any perceived similar uses as argued by the appellant.

- 8.4. The proposal seeks permission for additional storage related to a public house located opposite/SE of the site. As stated by the Planning Authority (PA), public houses and related development are not listed within either of these permissible or for consideration uses. A public house is not the same as a restaurant as argued by the appellant. Therefore, based on this the proposal is contrary to the plan in principle.
- 8.5. However, 14.3.1 also states that other uses will be dealt with in accordance with the overall policies and objectives in the plan. Non conforming uses can also be considered under 14.5, which states “each shall be considered on their merits, and permission may be granted where the proposed development does not adversely affect the amenities of premises in the vicinity and does not prejudice the proper planning and sustainable development of the area”. Accordingly, a non-conforming use may be granted subject to the merits of the proposal, amenity is protected, and proper planning and sustainable development is not prejudiced. Thus, unless these matters are considered acceptable, the proposal may be considered inappropriate in principle. These issues are considered below.
- 8.6. Based on the zoning, the proposal is located within a residential Conservation Area. Accordingly, BHA9 Conservation Areas is relevant and requires “Development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.” The sub-text of 11.5.3 of the plan acknowledges the conservation merit of features of these areas, with proposals requiring “special care” and encourage development “which enhances the setting and character”. Again, unless these matters are considered acceptable, the proposal may be considered inappropriate in principle and are considered below.
- 8.7. The eastern and northern site boundaries of the site also form the boundaries of the Z2 Residential Conservation Area. Victoria Lane itself is undesignated. Residential properties to north of the site fall within a separate zoning Zone Z1: Sustainable Residential Neighbourhoods, the boundary of which aligns with the rear boundaries of these properties. The row of existing non-residential/commercial buildings within which the related public house is located immediately to the southeast on the opposite side

of the laneway are within a further zoning, Zone Z4: Key Urban Villages/Urban Villages. The associated zoning objectives for these areas are therefore also relevant.

- 8.8. In conclusion, I consider that unless the merits of the proposal including detail matters relating to design, impact on character, and amenity impacts on existing properties are considered acceptable as stipulated in paragraph 14.5, Non conforming uses, the proposal is inappropriate in principle.
- b) Design and Impact on character;
- 8.9. The appellants consider the proposal is appropriate in terms of design and impact on the character of the residential conservation area and locality, whilst the PA and 3rd parties disagree. The PA report states the materials are acceptable.
- 8.10. The proposal comprises retention of a black metal container, with alterations and cladding included to mitigate impacts on character as argued by the appellant.
- 8.11. In assessing this aspect, the wording/emphasis of BHA9 is such that proposals “must contribute positively” (my emphasis) to character and distinctiveness to the area. This is reinforced in the sub-text of paragraph 11.5.3 and associated wording which requires “special care” and “enhancement” which is discussed above at paragraph 8.4. This is also a requirement in paragraph 15.15.2.2. Criterion 4 of BH9 states that contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area would represent an “enhancement opportunity”.
- 8.12. The proposed metal container is typical of industrial design and purposefully designed to reflect function. The stated dimensions of the container are 5.38m in length, 2.58m in height, 5.50m in length, and width of 3.70m narrowing to c. 2.41m along the northern elevation.
- 8.13. The appeal site forms part of a backland area of a row of dwellings with frontage onto Hollybank Road. The site is screened from view from Hollybank Road to the south and Drumcondra Road Lower to the east by intervening built form. Limited views of the site are possible from Botanic Avenue further to the North via a gap provided by Victoria Lane from which access to the site is facilitated. Dwellings to the north/northwest of the site with frontage to Botanic Lane, in addition to buildings to the northeast fronting Drumcondra Road Lower and Botanic Avenue screen public views from these streets. Public views are therefore limited to within Victoria Lane and short distance views on

approach from the north and west. Mid and long distance views from the west are also restricted by intervening built form. Victoria Lane to the north and east of the site comprises typical backland architecture, with the majority of frontages defined by garage/outbuildings finished in render with garage doors and single storey in height or boundary walls. This provides a uniform / cohesive boundary treatment to both the northern (outside of the Residential Conservation Area) and southern (within the Residential Conservation Area) sides of Victoria Lane.

- 8.14. The proposed design and finishes of the container would be at odds with existing built form and finishes on Victoria Lane which are uniform and cohesive and contribute to the backland character of both sides of Victoria Lane and their respective zonings. It would be the only structure of this type, design and materials within the Lane. Notwithstanding the limited public views, I am not persuaded that the design satisfies the policy requirements of BH09 to contribute positively to the area or constitute an enhancement as discussed in paragraph 11.5.3. In addition, the proposal does not meet criteria at bullet points 1 and 5 of 15.15.2.2 relating to respecting the existing setting and character of the surrounding area, and ensure materials and finishes are in keeping with the existing built environment.
- 8.15. I note the examples cited by the appellant in regard to containers and their repurposing for alternative uses in other locations. However, the evidence provided does not demonstrate that such design approaches have been successfully applied at or near the appeal site within the Z2 Zoning. The policy provides specific requirements for any proposals to be appropriate to this location and context. It does not alter my conclusions on design and character impacts as discussed above.
- c) Amenity impacts;
- 8.16. The refusal reason by the PA refers to focuses on visual impacts and does not refer to amenity issues. The PA planning report does not include an assessment of these issues. This did, however, constitute part of a refusal reason in the previous case (PA ref: 3852/23). 3rd parties consider that the proposal would adversely affect adjoining landowners from the nature of the use and location/proximity to residential uses adjacent. The appellant considers that there would be no adverse impacts.
- 8.17. Policy CCUV36: New Development requires “little impact (my emphasis) on the amenity of adjoining or adjacent residential uses through noise disturbance and where there are

no negative cumulative impacts in terms of other night-time economy uses in the area". 15.15.2.2 bullet point 3 states all planning applications for development in Conservation Areas "shall (my emphasis) protect the amenities of the surrounding properties and spaces". This is also a requirement at 15.14.12 which relates to licenced premises and similar development typologies.

- 8.18. The appeal site is located to the rear of an existing residential use, 1 Hollybank Road. This is a two storey end terraced building. To the rear there is a two-storey extension with large rectangular single storey extension beyond immediately adjacent/to the south of the appeal site. There are further dwellings immediately to the west, also within the same Z2 zoning as the appeal site, and further to the north beyond Victoria Lane within a separate zoning, Zone Z1: Sustainable Residential Neighbourhoods. The existing licenced premises "Kennedy's Pub" is located approximately 12.1m at the closest point to the southeast of the appeal site.
- 8.19. The appeal site appears to have previously formed part of the curtilage of the residential building 1 Hollybank Road to the south. The proposal includes the blocking up of an existing ground floor window opening of the rear/northern elevation of the single storey extension section of the site. Floorplans of this building have not been provided. The rear section of the of 1 Hollybank Road is directly opposite the rear entrance (c. 7.27m) to Kennedy's Pub which appears to facilitate servicing to/from the public house.
- 8.20. Due to the height of the structure and location of proposed openings, the proposal would not adversely impact on neighbouring properties to the west, north and east in terms of privacy, overshadowing/loss of light or overbearance due to the design/height and separation distances available.
- 8.21. The proposal, if approved, would result in the loss of a section of the curtilage of 1 Hollybank Road. I note residential policy requirements within the plan and the requirement to ensure amenity protection of the curtilage as a whole. If approved, external amenity provision would largely be removed at the rear save for a small triangular section (c.8.5sqm) between the rear extensions and the eastern boundary with Victoria Lane, and a mostly covered area (c. 4.8sqm) further to north and immediately adjacent to a rear access door to the single storey extension with the appeal site abutting to the north. These areas are fully open to public views and there would be no private amenity space provision to the rear, if permission is granted. I

consider that this residential building has poor external amenity space provision currently, regardless of the outcome of this appeal. If approved the proposal would result in further detriment and I consider this impact to be unacceptable. The loss of a rear window to accommodate the appeal proposal would result in a loss of light to internal accommodation. I therefore consider that the proposal fails to satisfy the requirements of 15.15.2.2. Notwithstanding these issues, I do not consider that the proposal would be unacceptable in terms of privacy, overshadowing/loss of light or overbearance. Related impacts would not be significant given existing conditions of, and relationship with, the immediate context. Whilst the owner of 1 Hollybank Road is supportive of the proposal, as evidenced by their letter of consent for alterations to the rear window of the single storey extension, this does not outweigh the requirement for the proposal to be compliant with policy including the protection of amenity.

- 8.22. Noise impacts are a material consideration and related policy provisions are set out above. Given the close proximity, 1 Hollybank Road would already be impacted by noise disturbance from activities associated with the Public House. The PA Environmental Health response states no objections subject to a condition restricting deliveries to between 07:00 and 18:30hrs. The response queries if refrigeration units/mechanical plant would be operated within the storage container. The appellant's evidence indicates this would not be the case.
- 8.23. Whilst the Environmental Health response has no objections, the suggested condition solely relates to deliveries. There is no comment, assessment, or evidence that quantifies the noise impacts of the operation of/transference of stock or materials to and from the public house. Nor is there any assessment of the cumulative noise impacts with existing servicing activities. Whilst Environmental Health confirm that the proposal would not breach statutory noise limits, it is evident that the proposal would result in/facilitate increased servicing activities associated with the public house along this section of Victoria Lane, directly adjacent to residential premises. 1 Hollybank Lane, and those dwellings in close proximity, are already impacted by disturbance from servicing and the proposal would further compound these activities. Having regard to the wording of the relevant policies as discussed at paragraph 8.17 above, the requirements emphasise that developments shall have a minimal impact in terms of noise and amenity. Based on the evidence, I am not satisfied that amenity would be protected and the proposal is unacceptable in regard to this issue.

d) Precedent;

- 8.24. The refusal reason cited by the PA includes reference to the proposal setting an undesirable precedent. This is supported by 3rd parties but disputed by the appellant.
- 8.25. Following the above assessment, I consider that the proposal would not set a precedent in principle, given that the policy allows for the consideration of non conforming uses based on the merits of the particular case for consideration.
- 8.26. In addition, there are particular circumstances in this case, including the nature of the proposal, site characteristics, and associated relationship with adjacent built form. I do not consider that there are similar circumstances in the area, and the PA report and observations do not identify any such circumstances. I therefore conclude that the proposal would not result in an undesirable precedent and each case must be assessed on its merits.

e) Access and operation of Victoria Lane

- 8.27. The PA report, including the response from the Transport Department, refer to issues with the operation of Victoria Lane and associated road safety. This is also referenced by the 3rd parties. The appellant considers this is a separate issue.
- 8.28. Following review of the supporting information, I am satisfied that the storage container is within the confines of the site. Accordingly, the proposal would not, in itself, have any impacts on, or inhibit the use of, Victoria Lane and no alterations to the Lane or parking forms part of the proposal. The issues raised by the PA and 3rd parties on this issue are outside the scope of this appeal and I consider this is a matter for the PA/Council and other relevant public bodies.
- 8.29. Notwithstanding the above, the report refers to an approved service management plan conditioned as part of the previous granted permission, PA reference 5020/22. I would highlight to the Commission that the site boundary on the location plan appended to the planning history documentation on file does not include/encompass the appeal site. This is a matter for the PA and outside the scope of this appeal.

f) Other Issues

- 8.30. The appellant cites a judicial review, *Byrne v An Bord Pleanála* [2020], as supporting the proposal. This relates to a development comprising a two storey extension and beer garden. This relates to a proposal that differs from that subject to this appeal and from

the evidence provided I do not consider that this is of material relevance to the appeal, given that the substance of the proposal seeks to provide additional storage facilities on lands outside of the curtilage of the related public house.

- 8.31. The appellant suggests conditions for temporary permission and revised materials that could allow permission to be granted. Whilst I accept that such conditions could be attached to a decision, I do not consider that these would outweigh the conflict of the proposal with the zoning and therefore appropriate.
- 8.32. The appellant further argues that the site has been subject to dumping prior to the container being placed on-site. I do not consider this justifies the proposal or outweigh the policy and zoning objections discussed above.
- 8.33. A 3rd party queries the ownership of the site. I note that the supporting information includes a letter of consent by the owner/occupier of 1 Hollybank Road and this is referenced in the PA report. The application form indicates that the appellant is the owner of the site. There is no persuasive evidence from the 3rd party to dispute ownership and there are no grounds to withhold permission on this basis.
- f) Material Contravention.
- 8.34. The PA consider that the proposal would constitute a material contravention of the Z2 zoning objective of the plan which is “To protect and/or improve the amenities of residential conservation areas” due to the non-conforming use. This is supported by the 3rd parties, whilst the appellant disagrees due to the ancillary nature of the proposal and limited public views of the site.
- 8.35. As set out in the assessment above, having examined the facts and the relevant material considerations, I consider that the proposal would be contrary to the zoning objective of the site not being a defined “permissible” or “open for consideration” use, would not respect the character of the area, would adversely affect amenity, and therefore not constitute an acceptable non-conforming use. Accordingly, I consider that the proposal would constitute a material contravention of the plan.
- 8.36. Having regard to Section 37 (2) of the Planning and Development Act 2000 (as amended), the Commission may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the PA to whose decision the appeal relates.

8.37. The Commission may only grant permission subject to 4 criteria under section 37(2)(b), and the proposal is assessed against each of these below:

i. the proposed development is of strategic or national importance.

The proposal comprises erection of a storage container for goods related to the operation of an existing public house. It is not therefore of sufficient scale to constitute a development of strategic or national importance. The associated public house operation and building is typical of suburban economic activity and therefore not considered an operation of strategic or national importance.

ii. there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned.

The relevant policy considerations are set out above. Protection of amenity, character, heritage assets, and design considerations are repeated within these policy considerations and associated development management standards. There are no conflicting or unclear objectives and the parties have not highlighted any such conflict within the supporting evidence.

iii. permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government.

There are no guidelines, directives, statutory obligations, Government or Ministerial policies of relevance to / or outweigh the Development Plan considerations for the proposal and the parties have not highlighted any such conflict within the supporting evidence.

iv. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

The pattern of development, uses, and architectural details of the area do not support the proposal as set out in the above assessment. There are no granted permissions of material significance in the locality since the making of the development plan. The parties have not highlighted any permissions or considerations within the evidence that would support the proposal.

8.38. I therefore conclude that the limited circumstances where the Commission could overturn reasons of refusal involving material contravention, have not been met.

9.0 **AA Screening**

9.1 I have considered the proposed access and associated works in light of the requirements S177U of the Planning and Development Act 2000 as amended.

9.2 The subject site is located within an urban area of Dublin.

9.3 The proposed development comprises alterations and works as described at section 2.0 above.

9.4 No nature conservation concerns were raised in the planning appeal.

9.5 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:

- small scale nature of works and nature of the development;
- distance from nearest European site and lack of connections.

9.6 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.

9.7 Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 **Water Framework Directive**

10.1. The subject site is located within the urban area of Dublin.

10.2. The proposed development comprises alterations and works as discussed at section 2.0 above.

10.3. No water deterioration concerns were raised in the planning appeal.

10.4. I have assessed the development 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.

10.5. The reason for this conclusion is as follows:

- small scale nature of works;
- The location of the site and distance from nearest Water bodies and lack of hydrological connections.

10.6. Conclusion

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.

11.0 Recommendation

11.1. I recommend that planning permission should be REFUSED for the reasons and considerations as set out below.

12.0 Reasons and Considerations

The proposed retention of the existing storage container and the proposed external cladding and closure of opes would materially contravene the Z2 zoning objective of the site which is “To protect and/or improve the amenities of residential conservation areas.” The proposed development comprising of a non-conforming use would result in unacceptable negative impacts on the visual amenities of the residential conservation area and would be contrary to Policy BHA9 which aims to protect and enhance the character and appearance of the residential conservation area and its setting, wherever possible. The proposed development would also be contrary to Policy CCUV36 which aims to support uses that would result in the diversification of the evening and night time

economy where there is little impact on the amenity of adjoining or adjacent residential uses, and Development Management Standards in that it would, if permitted, adversely impact on the amenity of neighbouring residential uses including 1 Hollybank Road, and would therefore be contrary to the proper planning and sustainable development of the area.

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

R Taylor
Planning Inspector

21st April 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL29N.500718-DN-26
Proposed Development Summary	Retention permission for a commercial storage container to provide ancillary, external cladding to the container & closure of door ope; & Closure of 1 no. rear window ope to No. 1 Hollybank Road.
Development Address	Victoria Lane, to rear of & including No. 1 Hollybank Road, Dublin 9
IN ALL CASES CHECK BOX / OR LEAVE BLANK	
1. Does the proposed development come within the definition of a 'Project' for the purposes of EIA?	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q.2.
	<input type="checkbox"/> No, No further action required.
(For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	

