



An
Coimisiún
Pleanála

Inspector's Report PL-501238-DN-26

Development	Construction of 3 dwellings and all site associated works.
Location	Lands to the West of No. 22 Chelsea Gardens and the North of No. 91 Kincora Road, Clontarf, Dublin 3.
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	WEB5556/25
Applicant(s)	Grey Wolf Colonel Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	Chelsea Gardens Residents
Observer(s)	Clontarf Residents Association
Date of Site Inspection	24 th July 2026
Inspector	Susan McHugh

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1.0 Site Location and Description

- 1.1. The subject site is located at the end of a residential cul-de-sac at Chelsea Gardens, Clontarf, Dublin 3.
- 1.2. Houses along Chelsea Gardens are characterised by short terraces of 4 dwellings and pairs of semi-detached houses. Houses along Kincora Road benefit from long back gardens. There are a number of infill residential developments accessed from Hazel Lane to the west and Chelsea Court a two storey plus dormer apartment development accessed from Chelsea Gardens.
- 1.3. The appeal site is situated on the western side of an existing two storey semi-detached house No. 22 Chelsea Gardens, and north of No. 91 Kincora Road. There is a residential laneway, with gated access from Kincora Road, that runs to the rear of the site and adjacent dwellings along the southern side of Chelsea Gardens.
- 1.4. The end of the Chelsea Gardens cul-de-sac is defined by two parcels of green spaces (c.85sqm to south and c.300sqm to the north). The green spaces are separated by an access to the Chelsea Gardens apartments.
- 1.5. The appeal site is overgrown, and the northern boundary of the subject site is enclosed by a barrier fence located in line with the front boundary of no. 22 Chelsea Gardens. It partially encloses the area of open space to the south of the laneway access to Chelsea Gardens.
- 1.6. The site is served by a number of public transport routes including Dublin Bus Route Nos. 104 and 130 providing a connection to the city centre. Killester DART station is located 1.4km from the subject site, providing a connection to Howth, city centre, Dun Laoghaire, Bray, and access to the InnerCity Train.
- 1.7. The site is roughly rectangular in shape with a stated site area of 0.0859 ha.

2.0 Proposed Development

- 2.1. The application lodged was lodged 31/10/2025. Permission is sought for
 - Construction of a terrace of 3 no. three-storey three-bedroom dwellings each with private garden to the rear, 1 no. car parking space to the front and 1 no. rooflight;

- Provision of new vehicular/pedestrian entrance via Chelsea Gardens; and
- all associated works, including boundary treatments, landscaping, drainage and engineering works necessary to facilitate the development.

2.2. The application is accompanied by the following;

- Planning Report
 - Appendix A: Court Order and Agreement between the applicant and DCC as per the Court Order dated 15th July 2025 with accompanying site layout plan.
- Daylight and Sunlight Assessment

2.3. A request for further information was issued on 19/12/2025, with a response to further information received on 04/03/2026.

2.4. The proposed development as amended in response to RFI, includes a reduced paved front forecourt area, and was accompanied by the following;

- Planning Report
 - Appendix B Auto track drawings
 - Appendix C Services Report and Drainage Detail Drawings

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The PA decided to issue a request for Further Information on 19th December 2025 as follows (summarised):

1. Revised documentation / drawings which addresses the following concerns:

- a. Emergency access requirements, including swept path analysis for emergency vehicles if required.
- b. Proposed extensive paved front courtyard area would facilitate additional in-curtilage parking above the maximum standard. Extent of the forecourt to be reduced accordingly. Swept path analysis of private car access / egress requirements and details of the management of car parking to be provided in support of the required forecourt area. Any design changes which impact the

parcel of green space/area in charge of the Local Authority, to be shown on the drawings

c. A dedicated secure cycle storage facility to be provided to serve 'House B', as this dwelling does not benefit from direct side passage access to its rear garden.

2. Applicant advised absence of surface water management details submitted with the application, requested to submit the following:

i. Provide drainage information which demonstrates that the proposed development can adequately manage surface water. As the proposal is for 3 houses, the applicant should submit a surface water management plan, including drawings and a report. Demonstrate that the proposed measures are capable of storing the 1% AEP storm event, plus 20% climate change.

3.1.2. On 31st March 2026 the PA **granted** permission for the proposed development as revised by Further Information, subject to 13 no. conditions.

Condition No. 1 Plans and Particulars

Condition No. 2 Section 48 Development Contribution

Condition No. 3 Lodgement of a cash deposit or a bond.

Condition No. 4 Restriction of 3 residential unit.

Condition No. 5 Agreement of external materials, finishes and design details.

Condition No. 6 Biodiversity landscape and taking-in-charge requirements.

Condition No. 7 Drainage requirements.

Condition No. 8 Transportation planning requirements.

Condition No. 9 Naming and numbering.

Condition No. 10 Electronic communications/digital connectivity

Condition No. 11 Hours of construction.

Condition No. 12 Noise requirements during construction.

Condition No. 13 Roadways to be kept clear of debris and cleaned.

3.1.3. **Conditions**

The following condition is relevant to the grounds of appeal.

Condition no. 6 details the requirements of the PA in relation to biodiversity, landscaping and taking in charge which can be summarised as follows;

- a) Trees and hedges not to be removed during the bird breeding season (March 1st to August 31st). Landscape planting shall create habitat for biodiversity value.
- b) A detailed landscape scheme, prepared by a Landscape Architect to be submitted to the Planning Authority for agreement prior to the commencement of works. The landscape scheme shall have regard to the Guidelines for Open Space Development and Taking in Charge and Landscape Completion Report Guide (Parks, Biodiversity & Landscape Services Division Dublin City Council).
- c) Plans shall be submitted prior to construction commencement to outline areas proposed to be taken in charge for written agreement of the Planning Authority including
 - i. A landscape specification and drawings
 - ii. The public open spaces will be open to public use following substantial completion and shall be under the management and maintenance of the applicant/developer until taken in charge.
 - iii. A site inspection of areas to be taken in charge shall be arranged in writing four weeks before the proposed date of being taken in charge following a maintenance/defects liability period of 24 months after substantial completion of the works has been notified in writing to Dublin City Council's Parks Services. Transfer of Title (ownership) from the landowner to Dublin City Council shall occur for areas to be taken in charge before the date agreed for taking in charge.
- d) Whether any invasive species (as defined by the Birds and Natural Habitat Regulations Third Schedule) are located within the site. Where such species are identified, the developer shall safely remove the plant material in accordance with current regulations.
- e) The public open space lands will be protected from impacts as a result of the development works, details and alignment of the protection fence will be submitted to the Planning Authority for written approval.

Reason: In the interest of landscape and taking in charge requirements in compliance with Guidelines for Open Space Development and Taking in Charge and Landscape Completion Report Guide (Parks, Biodiversity & Landscape Services Division Dublin City Council), and in the interest of amenity and to promote biodiversity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The 1st Planners Report (dated 17/12/2025) includes an assessment of the proposed development in respect of the following considerations:

- Residential development acceptable in principle.
- *Open Space* - Subject site includes c.85sqm of green space, which is taken in charge by Dublin City Council (DCC). Refers to Report received from Parks, Biodiversity and Landscape Services section of the PA and agreement for the area to be taken in charge, and the continued use as open space, made between the applicant and Dublin City Council on 15th May 2025 Ref. no. 2020/1762.
- *Design and Layout* – Contemporary design, consider design and height would integrate into the existing residential street. Proposed materials and finishes considered acceptable. Not considered that the proposal would result in undue overlooking to opposing properties or have an overbearing impact on adjoining property.
- *Enforcement* -An enforcement file has been opened in relation to fencing erected on site, enforcement ref E0595/25. The fencing is within the ownership boundary submitted as part of the application, is under enforcement investigation and is out of the remit of this current application. It is noted that an area of land to be used as open space and maintained by Dublin City Council has been agreed between the applicant and the Planning Authority.

- *Development Standards* - Proposed dwellings meets/exceeds the target floor areas for a 3BED/6P House (3 storey) in keeping with the standards in the Quality Housing for Sustainable Communities (2007).
- *Private Open Space* - Quantum proposed is acceptable.
- *Daylight and Sunlight* - Site is well oriented and the proposal provides for south facing rear gardens. Adjacent properties would not to be significantly affected.
- *Access and Car Parking* – Recommends FI in relation to access and egress arrangements for emergency vehicles, and in relation to in-curtilage parking on site. Consider a potential redesign of the turnabout to facilitate emergency access and safe carparking area would be required, which may impact the parcel of green space/area in charge of the PA, any changes to this area to be shown on drawings.
- Recommends FI in relation to transportation and drainage issues.

3.2.3. **The 2nd Planners Report** (dated 25/03/2026) considers the response to the FI request.

- **Re. Item 1:** Notes in relation to Transportation items raised and Transportation Report received, that no issue in relation to traffic hazard has raised. TPD have recommended a compliance condition in relation to a carparking management plan, considered acceptable. In the event of a grant, appropriate conditions relating to the transportation requirements of the Planning Authority will be attached.
- **Re. Item 2:** Notes in relation to the Drainage items raised and Drainage Division Report received that no further concerns are raised. In the event of a grant, appropriate conditions relating to the drainage requirements of the Planning Authority will be attached.
- The report concludes that the proposed development accords with the zoning objective of the site, would not materially contravene the policies and objectives of the DCDP, and would accord with the proper planning and sustainable development. A grant of permission is recommended.

3.2.4. Other Technical Reports

- **Roads Streets and Traffic Department:** 1st Report dated 25/11/2025 recommends further information in relation to emergency access requirements including swept path analysis, extent of paved front courtyard area, and cycle storage for 'House B'. 2nd Report dated 23/03/2026 recommends no objection subject to requirements.
- **Drainage Division:** 1st Report dated 02/12/2025 recommends further information in relation to surface water management. 2nd Report dated 20/03/2026 recommends no objection subject to requirements.
- **Parks and Landscape Division:** Report dated 11/12/2025 recommends no objection subject to requirements in relation to biodiversity, landscaping and Taking in Charge.

3.3. Prescribed Bodies

- **Uisce Éireann:** No report received.

3.4. Third Party Observations

3.4.1. The Planning Authority indicates that 2 no. submissions were received from the following parties;

- Clontarf Residents Association
- Residents of Chelsea Gardens

3.4.2. I have reviewed the submissions on file and confirm that the issues raised in the third-party submissions continue to form the basis of the appeal (overdevelopment, 3 storey height out of character, clearance works on site without the benefit of planning permission, pressure on parking in the locality and regarding sale, acquisition and ownership of the site) which are outlined in detail in section 7.0 below.

4.0 Planning History

PA Reg.Ref.3539/18: Planning permission **refused** on 27/03/2019 for the construction of a two-storey contemporary-style part pitched, part flat roof building comprising; 3 no. three bedroom town houses all with individual walled gardens at

ground floor level to facilitate private garden space; dormers to the front (north facing) and rear (south facing) elevations, to facilitate attic accommodation, and rooflights.

Other works as part of this development include; bin storage; creation of new vehicular and pedestrian entrance to serve the proposed dwellings; 5 no. car parking spaces, bicycle parking; SuDS drainage; landscaping; boundary treatments; and all associated works to facilitate the development.

Reason for Refusal

‘The site is located in an area with the zoning objective Z1 ‘to protect provide and improve residential amenity’. Having regard to the following sections: Green Infrastructure, Open Space and Recreation 2.38, Urban Density SC15, and Residential Quality Standards as set out in Section 16.10 of the 2016-2022 Dublin City Development Plan, it is considered that the proposed development would result in the loss of existing and maintained open space associated with an established residential area thus undermining the residential amenity of the local housing area. The proposed development would, therefore, be contrary to the provisions of the Dublin City Development Plan 2016-2022, set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

Planning Enforcement

E0595/25: Chelsea Gardens, Dublin 3 adjacent to no 22 Chelsea Gardens: Nature of the problem - open space in Chelsea Gardens taken over, denying access to locals in area.) Enforcement opened 7th August 2025. (referred to in Planners Report and third-party appeal).

5.0 Policy Context

5.1. Dublin City Development Plan 2022-2028

- 5.1.1. The appeal site is zoned Z1: Sustainable Residential Neighbourhoods, with the associated land use objective *to protect, provide and improve residential amenities*. Residential use is permissible on lands zoned Z1.
- 5.1.2. Residential development is a permissible use.

5.1.3. **Chapter 2** of the development plan relates to the **Core Strategy**.

Section 2.2 states '*Based on the population targets and calculated housing need set out within national and regional planning policy, guidelines and prescribed methodology, the development plan must accommodate between 20,120 – 31,520 additional persons up to an overall population target of between 625,750 and 640,000 by 2028. The housing demand calculated sets a requirement for the development plan to provide for approximately 40,000 housing units between 2022 and 2028.*'

5.1.4. **Chapter 4** relates to the **Shape and Structure of the City**. Relevant policies within include:

SC10: Urban Density

SC11: Compact Growth

SC12: Housing Mix

SC13: Green Infrastructure

SC14: Building Height Strategy

SC19: High Quality Architecture

SC20: Urban Design

SC21: Architectural Design

5.1.5. **Chapter 5** relates to **Quality Housing and Sustainable Neighbourhoods** and includes the following relevant Policies and Objectives:

QHSN2: National Guidelines,

QHSN04 Densification of Suburbs

QHSN6: Urban Consolidation,

QHSN10: Urban Density,

QHSN11: 15-Minute City,

QHSN12: Neighbourhood Development

QHSN14: High Quality Living Environment,

QHSN22 Adaptable and Flexible Housing

QHSN37 Houses and Apartments

5.1.6. **Chapter 10** relates to **Green Infrastructure and Recreation**

Relevant Policies and Objectives include

GI25 Open Space Provision (sq. m.) per 1,000 Persons Benchmark,

GI27 Addressing Public Open Space Deficits in Identified Areas,

GI28 New Residential Development,

GIO22 Dublin City Parks Strategy,

GIO23 Manage / Protect / Enhance Parks,

GI45 National Physical Activity Plan 2016,

GI46 To Improve and Upgrade/ Provide Access to Sports / Recreational Facilities,

GI49 Protection of Existing and Established Sport and Recreational Facilities,

GI51 Children's Playing Facilities – General,

GI52 Children's Playing facilities in New Residential and Mixed Developments,

GIO49 Dublin City Play Strategy 'Pollinating Play' 2021 and

GIO50 Play Friendly Communities.

5.1.7. **Chapter 14** relates to **Land Use Zoning**.

See 5.1.1 above.

5.1.8. **Chapter 15** relates to **Development Standards** and contains various relevant content and guidance including

Section 15.2.3 Planning Application Documentation - Planning Thresholds

Table 2 Appendix 5 sets out Maximum Car Parking Standards for apartment developments. The subject site is located within **Parking Zone 2** as per Map J of the Development Plan 'alongside key public transport corridors' and identifies a maximum car parking provision of 1 no. space per dwelling.

Section 15.8.6 Public Open Space requirements for residential development, 10% for Z3 lands.

Table 15-4 sets out public open space

Section 15.5.2 relates to Infill Development

Section 15.11 relates to House Developments

Section 15.13.3 relates to Infill / Side Garden Housing Development

5.1.9. **Appendices:** The DCDP contains several appendices including the following which are of most relevance:

Appendix 1: Housing Strategy,

Appendix 3: Achieving Sustainable Compact Growth Policy for Density and Building Height in the City,

Appendix 4: Development Plan Mandatory Requirements,

Appendix 5: Transport and Mobility: Technical Requirements,

Appendix 16: Sunlight and Daylight.

5.2. **National/Regional Plans/Policies**

- National Planning Framework – First Revision April 2025
- Delivering Homes, Building Communities: An Action Plan on Housing Supply and Targeting Homelessness, 2025-2030 (November 2025),
- Climate Action Plan 2025 (CAP25)
- Transport Strategy for the Greater Dublin Area 2016-2035

5.3. **Section 28 Ministerial Planning Guidelines**

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024 hereafter referred to as “the Compact Settlement Guidelines”.
- Urban Development and Building Heights Guidelines for Planning Authorities, 2018, hereafter referred to as the ‘Building Heights Guidelines’.
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities, 2021, updated 2023 (Commercial Institutional Investment Guidelines).
- Design Manual for Urban Roads and Streets DMURS

5.4. Other

Dubin City Council Parks Strategy, 2019-2022

This Strategy examines the resources, facilities and services that are available to residents and visitors and how they can be improved.

5.5. Water Framework Directive

The European Union Water Framework Directive 2000/60/EC (WFD) was adopted in 2000 as a single piece of legislation covering rivers, lakes, groundwater and transitional (estuarine) and coastal waters and includes heavily modified and artificial waterbodies. The overarching aim of the WFD is to prevent further deterioration of and to protect, enhance and restore the status of all bodies of water with the aim of achieving at least 'good' ecological status by 2015 (or where certain derogations have been justified to 2021 or 2027).

5.6. Natural Heritage Designations

The appeal site is not located in or immediately adjacent to a European site, a Natural Heritage Area (NHA) or a proposed NHA. There are several environmental and conservation designations which are in proximity of the site, in both inland and coastal locations.

The European site designations in proximity to the appeal site include South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and North Dublin Bay SAC (Site Code 000206) located c.0.5km to the south of the site. North Bull Island SPA (Site Code 004006).is situated c.0.63km to the east of the site.

The proposed development is located within an established residential area and comprises the construction of three dwellings and all other ancillary works. There will be a connection to the public sewerage network. There are no watercourses linking the site to any such designated areas.

6.0 EIA Screening

The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2, in Appendices of this report). 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.

7.0 The Appeal

7.1. Grounds of Appeal

7.1.1. A third-party appeal is lodged by Meadhbh Ringrose and Brian Nolan on behalf of the Chelsea Gardens Residents. The main grounds can be summarised as follows:

- *Loss of public green/open space – represents a material diminution of residential amenity* - Proposed development incorporates lands that have functioned as public green/open space serving the estate and taken in charge by DCC in or about 1998.
 - Space has provided residential amenity to the estate for over forty years.
 - Contrary to proposer planning and sustainable development, as well as the objectives of the Dublin City Development Plan to protect and enhance established residential amenities and public open spaces.
- *Previous planning application Ref.3539/18* - Refused on 1st April 2019 on the grounds that the development would result in the loss of existing and maintained open space associated with an established residential area, thereby undermining residential amenity.
 - No material change in planning circumstances has occurred that would justify a different conclusion.
- *Land Transfer* - Decision relies upon a recent transfer of land by DCC to the applicant following Circuit Court proceedings on 15th July 2025.

- Notwithstanding transfer, the PA was required to assess the application having regard to the long-established use and amenity value of the lands as public open space.
- Chelsea Gardens residents were not notified or consulted in advance of this transfer.
- Granting permission which depends upon the loss of established public open space, without adequately addressing these implications, is premature and unsound from a planning perspective.
- *Site Boundaries* - Uncertainty remains regarding the extent and legitimacy of the application site boundaries.
 - Historic layouts and long-established boundary treatments indicate that the lands now included within the application site were not historically part of the development lands.
 - Granting permission in circumstances of boundary uncertainty, particular where public open space and adjoining residential amenity are affected, is contrary to proper planning practice.
- *Impact on Biodiversity* - Significant vegetation clearance occurred on and adjacent to the site prior to the granting of permission, including during the bird breeding season last July and August 2025 and was reported to the PA.
 - The subsequent reliance on standard biodiversity conditions is ineffective, as the environmental baseline of the site has already been materially altered prior to the decision.
- Proposed development results in the unjustified loss of established public open space, undermines residential amenity, sets an undesirable precedent for further erosion of communal green space, and is contrary to the proper planning and sustainable development of the area.
- Respectfully request that the Commission set aside the decision of DCC and refuse planning permission for the proposed development.

7.2. Applicant Response

7.2.1. A response to issues raised in the third-party grounds of appeal was submitted by the agent acting on behalf of the applicant.

7.2.2. The First Party response can be summarised as follows;

- Grounds of Appeal relate solely to legal ownership, specifically the perceived loss of open space considered to be public.
- No issue in respect of any design elements of the proposed infill development.
- Legal issue raised cannot be adjudicated over by ACP as this is a civil matter as opposed to a planning matter.
- Applicants' ownership is clearly demonstrated by the enclosed Circuit Court Order Ref. 2020/01762 with the court order clarifying ownership as opposed to detailing a 'land transfer' as erroneously referenced by the appellants.
- Request the Commission to dismiss the appeal based on Section 138 of the Planning and Development Act.

7.3. Planning Authority Response

A response from Dublin City Council was received requesting the decision of the PA be upheld.

The PA note that if permission is granted a number of conditions are requested to be included, these include Section 48 development contribution, payment of a bond, and a naming and numbering condition.

7.4. Observations

An observation was lodged by Deirdre Nichol on behalf of the Clontarf Residents Association. I have summarised the issues raised below;

- *Planners Report* - Concerns raised in original observation to the PA have not been adequately addressed.
- *Proposed Site* – Notes removal of access to well used portion of Open Space within Chelsea Gardens that has been available to the residents of Chelsea

Gardens since it was originally built, refer to previous refusal of permission on basis of use as open space.

- Submit ownership of a piece of land that is considered to be Open Space does not confer a right on the owner to remove it from Open Space
- Referred Planner to Judge Humphrey's ruling of 7th May 2021 in JR No. 725, and to the case of the 'little green' in Clondalkin and submit the facts of that case are the same as in the Chelsea Gardens. No reference to these matters in Planning Report. Request Inspector give full and careful consideration to this.
- *Design* – No rationale provided by Planner for concluding design would integrate well into the existing street given the obvious differences between the new three storey houses compared to the existing two storey houses and the contemporary design of the new houses compared to the 1970's style of the existing houses.
- *Parking* – Planner has ignored concerns regarding additional car parking in Chelsea Gardens, given one car proposed for each house and any additional cars or visitors' cars will have to park on Chelsea Gardens.
- *Request for Further Information* – Note Drainage Report on RFI not available. Request ACP to confirm that this report is made available.

7.5. Further Responses

- None.

8.0 Assessment

8.1. Introduction

- 8.1.1. Having examined the appeal and all other documentation on the case file, inspected the site, and had regard to the relevant national, regional, and local policies and guidance, I consider that the main issues in the appeal to be as follows:

- Ownership

- Principle of Development
- Layout Density and Design
- Residential Amenity
- Access and Parking
- Planning Precedent

8.2. Ownership

- 8.2.1. The application form submitted with the application indicates that the applicants Grey Wolf Colonel Limited is the owner of the appeal site.
- 8.2.2. Concerns are raised in the grounds of appeal regarding the ownership of the area of open space at the end of the cul de sac, which it is disputed is an established area of public open space.
- 8.2.3. A previous application on site under PA Reg.Ref.3539/18 was refused permission 27/03/2019 due to an issue surrounding ownership over a portion of the application site. The ownership issue specifically pertained to an area along the northern boundary of the site which it was asserted had been used for an extended period as public open space in association with Chelsea Gardens.
- 8.2.4. In the interim period between the refusal of the previous application and the submission of the current application, the applicant states that they have sought to clarify ownership via a legal process within the Circuit Court. This legal process culminated with the issuing of the Court Order, Record No. 2020/1762 dated 15th July 2025, contained in Appendix A of the Planning Report submitted with the planning application.
- 8.2.5. I also note the Enforcement Case opened 7th August 2025 under PA Ref. E0595/25 relating to the erection of fencing to the open space to the side of no. 22 Chelsea Gardens. The matter of enforcement falls under the jurisdiction of the planning authority.
- 8.2.6. I have examined the Court Order and Map annexed to the Court Order which clearly delineates the subject site outlined in red. The site layout plan indicates an area shaded pink within the northern part of the site with a stated area of 9m in length and

4m in width. The first term of agreement refers to this area shaded in pink as in the charge of Dublin City Council (DCC) who will continue to maintain it as open space.

- 8.2.7. The site layout plan also indicates an area hatched in black. The second term of agreement notes that DCC acknowledge the applicants as the registered owners, and that DCC shall not maintain the said lands as open space, 'notwithstanding the Managers orders dated July 1987 and September 1988 (which are not being challenged in these proceedings).'
- 8.2.8. The applicant notes that no works are proposed within the area shaded pink, and that works proposed within the area hatched black are limited to the provision of a new vehicular/pedestrian access gate/driveway and the provision of landscaping and boundary treatments.
- 8.2.9. The application has been assessed by the Parks and Landscape Division of the PA, and they have recommended no objection subject to requirements. It is accepted by the Parks and Landscape Division that *'Part of the site area, owned by the applicant, was under the maintenance of DCC Park Services. Part of the lands are to be public open space (magenta toned area of the layout plan) under the management of DCC Park Services. This area shall not be used or occupied for any part of the development. Taking in Charge of the open space will include transfer of title to DCC. A condition for Taking in Charge is therefore included.'*
- 8.2.10. Condition No. 6 of the notification of decision to grant permission relates to the specific requirements of the PA in respect of biodiversity, landscaping and taking-in-charge. If the Commission are minded granting permission a similar suitably worded condition can be included.
- 8.2.11. Article 22 of the Planning and Development Regulations 2001 as amended sets out requirements for the content of planning applications generally. Article 22(2)(g) states that where the applicant for permission is not the legal owner of the land or structure concerned, the application shall be accompanied by the written consent of the owner to make the application.
- 8.2.12. The courts have been clear that the intent of art. 22(2)(g) is to guard against frivolous and vexatious applications by persons with no interest in the lands and, accordingly, with no prospect of being able to carry out the proposed development. In *Frascati Estates v. Walker* the Judge held as follows:

“An application for development permission, to be valid, must be made either by or with the approval of a person who is able to assert sufficient legal estate or interest to enable him to carry out the proposed development, or so much of the proposed development as relates to the property in question”.

- 8.2.13. The Commission is not an arbiter of title and the extent to which it is required to interrogate these issues is limited.
- 8.2.14. Notwithstanding there is nothing in this case to suggest that the applicant for permission is not the legal owner of the subject site, or that there is an issue with consent provided, the Commission are entitled to rely on this without further interrogation of the matter.
- 8.2.15. This is supported by section 5.13 the Development Management Guidelines for Planning Authorities (June 2007). Section 34(13) of the Planning and Development Act further provides that if the applicant lacks title or owner’s consent to do works permitted by a planning permission, the permission does not give rise to an entitlement to carry out the development.
- 8.2.16. The written consent under art. 22(2)(g) is required for the making of the application only and need not relate to the carrying out of the development. This principle was upheld in *Buckley & Grace v An Bord Pleanála*, where consent was withdrawn after the planning application was submitted but before the application was determined by the planning authority / by the Commission on appeal. It was held that because the consent was valid at the time of the original application, the planning application could still be determined notwithstanding that landowner consent was withdrawn in the intervening period.
- 8.2.17. In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal intent to make an application. Any further legal dispute is considered a Civil matter and are 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 2000 Planning and Development Act.
- 8.2.18. While the concerns of the third parties are noted, I am satisfied that the ownership of the site is a legal matter and does not form a fundamental matter in my planning assessment.

8.3. Principle of Development

Zoning

- 8.3.1. The entire site is located within an area zoned 'Z1 'To protect, provide and improve residential amenities' in the Dublin City Development Plan 2022-2028. Planning policy supports development of dwellings on corner/side gardens, subject to appropriate safeguards and standards.
- 8.3.2. Under the Dublin City County Development Plan 2022-2028 Policy QHSN6 and QHSN10 seek to promote residential consolidation and sustainable intensification at sustainable densities particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- 8.3.3. The proposed development involves the subdivision of the vacant site to accommodate three no. houses located to the side and rear of existing dwellings.
- 8.3.4. Section 15.5.2 of the CDP relates to development standards for infill development, described as 'lands between or to the rear of existing buildings capable of being redeveloped i.e. gap sites within existing areas of established urban form'. It is acknowledged that infill development should complement the existing streetscape, providing for a new urban design quality to the area. It is particularly important that proposed infill development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.'
- 8.3.5. Section 15.13.3 of the CDP sets out Council Policy specifically in relation to infill/side garden housing developments. It is noted that the Planning Authority 'will favourably consider the development of infill housing on appropriate sites, having regard to development plan policy on infill sites and to facilitate the most sustainable use of land and existing urban infrastructure'. The Planning Authority note that 'in general, infill housing should comply with all relevant development plan standards for residential development including unit sizes, dual aspect requirements, internal amenity standards and open space requirements. In certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that vacant, derelict and under-utilised land is developed.'

- 8.3.6. It is apparent therefore that, subject to qualitative safeguards, Dublin City Council will permit infill housing on appropriate sites within the city.
- 8.3.7. By reason of the existing pattern of development in the vicinity of the site, which is surrounded on all sides by established residential development, the appeal site can therefore, reasonably be seen to constitute an infill site.
- 8.3.8. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) recognise the need to ‘realise opportunities for adaptation and reuse of existing buildings and for incremental back land, brownfield and infill development, and deliver sequential and sustainable urban extension at locations that are closest to the urban core and are integrated into, or can be integrated into, the existing built-up footprint of the settlement.’
- 8.3.9. The Revised National Planning Framework (April 2025) likewise emphasises the need to make the most sustainable use of serviced land within existing built-up areas which can avail of existing social and physical infrastructure. The framework seeks to promote well designed high-quality development that can encourage more people and generate more jobs and activity within existing cities.
- 8.3.10. The proposed infill development is in accordance with these general policy objectives and the most recent government plan to deliver 3000,000 new homes by the end of 2030 under Delivering Homes, Building Communities: An Action Plan on Housing Supply and Targeting Homelessness, 2025-2030 (November 2025).
- 8.3.11. Having regard to provisions of the current Dublin City Development Plan 2022-2028, and Guidelines for Sustainable Residential Development and Compact Settlements 2024, and current national policy to increase housing supply, the acceptability or otherwise of the proposed development will be subject to the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining property and the need to provide additional residential development at this location. I propose to address such matters in the following sections’

8.4. Layout, Density and Design

- 8.4.1. The development proposes 3 no. three storey staggered terraced dwellings located to the side of an existing 2 storey semi-detached residential property. The site is to be accessed from Chelsea Gardens.

8.4.2. The surrounding area is characterised by 2 storey semi-detached dwellings.

Layout

8.4.3. I have had regard to the Architects drawings Architects Artistic Impressions / Contextual Contiguous elevations submitted with the application and as amended by way of further information. I have had regard to the layout/footprint and orientation of the proposed dwellings and am satisfied that the manner in which the front side and rear elevations address the cul de sac and adjoining residential development is well considered. I am satisfied that this infill site can accommodate the proposed dwellings and that the overall design of the proposed dwellings will not give rise to a significant visual impact or detract from the character of the area.

8.4.4. Having visited the site, and surrounding area, I am satisfied that the proposed layout makes optimum use of the site and that the three no. houses can be accommodated at this location.

Density

8.4.5. Policy QHSN10 of the Dublin City County Development Plan 2022-2028 seeks 'to promote residential development at sustainable densities throughout the city in accordance with the core strategy, particularly on vacant and/or underutilised sites, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.' Policy QHSNO4 supports the ongoing densification of suburbs, while Policy QHSN11 promotes the realisation of the 15-minute city.

8.4.6. The proposed development namely 3 no. dwellings, on a site of 0.0859 ha equates to a density of 35uph. Omitting the area of landscaped open space which has a stated area of 75sqm results in a net density of 39 uph.

8.4.7. The Guidelines for Sustainable Residential Development and Compact Settlements promote higher residential densities in the general range of 50-250 dph on city urban neighbourhood sites, and in the range of 40 to 80 dph on city suburban/urban extension sites.

8.4.8. Section 3.2 of Appendix 3 of the Development Plan provides guidance on residential density throughout the Dublin City administrative area. Due to the site's location in Clontarf, the PA considered the site to be situated in a 'Key Urban Village' location

which has a net density range of 60-150 units per hectare. It was accepted by the PA that the proposed density is lower than the density range for Key Urban Villages, the proposal was considered appropriate due to the existing character of the area and the constraints of the infill site.

- 8.4.9. The residential density proposed therefore, is at the lower end of the density range for suburban/urban sites promoted in the guidelines. I have had regard to the infill nature of the site and Section 15.5.2 and 15.13.3 of the CDP regarding infill development and am satisfied on balance the proposed development meets the development management requirements for such infill sites. I am further satisfied that the proposed density is appropriate on this infill site given the densities prevailing on adjoining residential developments.
- 8.4.10. I concur with the applicant that 'this density is considered to represent an appropriate balance between the need to ensure the efficient use of the subject site whilst preventing a scale of development which could appear overbearing relative to the comparatively lower density of development within the immediate area.'
- 8.4.11. I am satisfied that the proposed development would not therefore constitute overdevelopment of the site, is appropriate on an infill site at this location and that the proposed density is acceptable and would not materially contravene Section 15.5.2 or 15.13.3 of the CDP which relates to infill development.

Design

- 8.4.12. The 3 no. houses proposed to the side of the existing two storey houses are three storeys in height. The size and the layout of each house is identical.
- 8.4.13. The proposed houses have pitched roofs with a stated ridge height of 9m, a two-storey parapet level of 6.3m, and dormer roof height of 8.850m just marginally below the ridge height. The overall width of the proposed houses is 16.3m. It is accepted that the ridge height is higher than neighbouring properties, but I do not accept that a roof height which is c.1m above the adjoining two storey houses is excessive on this infill site.
- 8.4.14. In terms of visual intrusion, I accept that the proposed houses will be visible on this infill site from the cul de sac at Chelsea Gardens. However, I am satisfied that the scale, massing (including staggered layout) and height proposed can be assimilated

into the subject site. I am satisfied given the orientation of the houses, the separation distances from existing rear garden boundaries and height proposed as viewed from neighbouring properties, along with the design and profile of the proposed dwellings, that they will not give rise to significant visual impact.

8.4.15. I can also confirm from my site visit that the existing house no. 22 to the east has been extended significantly to the rear. I am satisfied that the proposed development in terms of scale, massing and height will not give rise to a significant visual impact, located as it is at the end of a cul de sac.

8.4.16. Finishes proposed include coloured render, selected brick cladding to gables, with metal cladding to dormer structures and roof. These finishes are considered acceptable.

8.4.17. I consider that the layout, density and design of the development take cognisance of existing residential development in the vicinity and the future occupants of the scheme and can be integrated into the existing built-up footprint.

Private Open Space

8.4.18. Private open spaces differ for each house, with 61 sq.m proposed for House A, 60 sq.m of proposed for House B, and 91 sq.m proposed for House C. Bin storage for Houses A and B is proposed at the side of each dwelling whilst the bin storage for House B is proposed at the front of the house.

8.4.19. Section 15.11 of the CDP relates to House Developments - In terms of private open space, the development plan requires a minimum standard of 10 square metres of private open space per bedspace will normally be applied. Generally, up to 60 to 70 square metres of rear garden area is considered sufficient for houses in the City.

8.4.20. SPPR 2 - Minimum Private Open Space Standards for Houses as set out in the Compact Settlement Guidelines requirements for a 3-bed house is 40sqm and for a 4 bed + house is 50sqm.

8.4.21. I am satisfied therefore that private open space meets the requirements of both the CDP and the Guidelines.

Summary

8.4.22. In summary, I consider that the proposed infill development would not be out of character with the immediate area, and is acceptable in terms of layout, density, design and finishes.

8.4.23. I consider that the proposed development is appropriate at this location on this infill site, and that the proposal is in compliance with Policy QHSN10, Policy QHSNO4 and Policy QHSN11 of the Dublin City County Development Plan 2022-2028. The proposed development is therefore, considered acceptable in principle.

8.5. Residential Amenity

8.5.1. Chapter 5 of the 2022 -2028 Dublin City Development Plan relates to quality housing and sustainable neighbourhoods. Chapter 15 sets out further details in relation to site development standards, Section 15.5.2 relates to infill development while Section 15.13.3 relates to Infill / Side Garden Housing Development.

8.5.2. Policy QHSN6 seeks '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.'

8.5.3. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities January 2024 set national planning policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements.

8.5.4. Special Planning Policy Requirement SPPR1 relates to Separation Distances and states that 'It is a specific planning policy requirement of these Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level.' It further states that 'there shall be no specific minimum separation distance at ground floor level or to the front of houses, duplex units or apartment units in statutory development plans and planning applications shall be determined on a case-by-case basis to prevent undue loss of privacy.'

Overlooking

- 8.5.5. Section 15.11.4 of the Dublin City Development Plan 2022-2028, provides the following guidance in regard to separation distances between opposing rear first floor windows. The Development Plan outlines the following guidance:
- 8.5.6. 'At the rear of dwellings, there should be adequate separation between opposing first floor windows. Traditionally, a separation of about 22 m was sought between the rear first floor windows of 2-storey dwellings, but this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. Careful positioning and detailed design of opposing windows can prevent overlooking with shorter back-to-back distances and windows serving halls and landings which do not require the same degree of privacy as habitable rooms.'
- 8.5.7. I note the proposed houses include dormer structures and windows above first floor. I accept that there will be a degree of overlooking from the first-floor bedroom and dormer windows to the rear. However, I am satisfied that as these windows are separated by 15.9m from the adjoining houses along Kincora Avenue to the south and not directly facing the rear elevations of adjoining houses that the degree of overlooking is acceptable in an urban area.
- 8.5.8. I am satisfied that the windows on the northern elevations will not result in overlooking as there are no dwellings to the immediate north of the site.
- 8.5.9. I am therefore, satisfied that there will be no significant overlooking of the rear gardens of the adjoining houses to the south and will not result in loss of privacy to the rear gardens of these adjoining properties to an unacceptable degree.

Overbearing

- 8.5.10. I accept that the proposed dwellings would sit c.1m above neighbouring properties and will be most visible from Chelsea Gardens. However, given the location of these houses at the end of the cul de sac, and setback from the boundary with the gable of the adjoining property I do not consider they would be significantly overbearing. I do not consider that it would be overbearing or injurious to the visual amenities of the area.

Overshadowing

8.5.11. I have examined the site layout drawings, height, separation distances and orientation of the proposed dwellings to the side and rear of the adjacent houses. I have also examined the Daylight and Sunlight Assessment which accompanied the application. I am satisfied that the proposed three storey dwellings and staggered layout will not give rise to overshadowing or loss of day light to adjacent houses.

Public Open Space

8.5.12. Concerns are raised in the grounds of appeal that the loss of public green/open space represents a material diminution of residential amenity. This is in my opinion at the crux of this appeal.

8.5.13. The end of the Chelsea Gardens cul-de-sac is defined by two parcels of green spaces (c.85sqm to south and c.300sqm to the north). The green spaces are separated by an access to the Chelsea Gardens apartments. The parcel to the north is in use as open space. The parcel to the south includes planting.

8.5.14. Lands within the ownership boundary submitted as part of the application comprise c.85sqm of green space, which is taken in charge by Dublin City Council. Drawing Proposed Site Plan no. 2017-01-P3-001 submitted as part of the application denotes a revised area to be taken-in-charge by Dublin City Council as per agreement made on 15th May 2025 record no. 2020/1762.

8.5.15. I can confirm from my site visit that the appeal site appeared overgrown and included a barrier along the northern boundary enclosing the site. The barrier is flush with the boundary of No. 22 Chelsea Gardens and partially encloses the area taken-in-charge by Dublin City Council.

8.5.16. It is submitted in the grounds of appeal that the reason for refusal under PA Reg.Ref.3539/18 has not been addressed in the current application. I do not accept this claim as the loss of open space and maintenance issues raised in the previous reason for refusal has been addressed by the applicant who has provided documentary evidence of a legal agreement between the applicant and the PA.

8.5.17. It is further submitted in observations received, that the PA did not consider the legal cases cited in submissions to the PA.

- 8.5.18. In this regard I note the case mentioned which relate to Clonres CLG v An Bord Pleanála the Minister for Housing, Local Government and Heritage, Ireland and the Attorney General, [2021] IEHC 3003. The High Court ruling by Judge Humphrey's of 7th May 2021 in JR No. 725, was in relation to a Strategic Housing Development on lands formerly part of St. Pauls College in Raheny.
- 8.5.19. One of the issues in the case relates to issues surrounding the proper interpretation of zoning regulations within the Dublin City Development Plan, and whether the development constituted a material contravention of the Dublin City Development Plan. In that case the site was zoned 'Z15' with the stated objective "to protect and provide for institutional and community use".
- 8.5.20. Section 37(2)(a) and (b) are the relevant provisions for the consideration of a material contravention for normal planning appeals.
- 8.5.21. In relation to the subject appeal, I note the entire site as outlined in red is zoned 'Z1' with a land use zoning objective 'To protect, provide and improve residential amenities' in the Dublin City Development Plan 2022-2028. Permissible uses include residential and open space.
- 8.5.22. The areas of open space do not benefit from a 'Z9' land use zoning objective 'To preserve, provide and improve recreational amenity, open space and ecosystem services.' I am satisfied that the proposed residential use and layout of development is acceptable in principle and as outlined above does not materially contravene the 'Z1' zoning objective.
- 8.5.23. With regard to Z1 lands, Section 14.7.1 of the Development Plan sets out the vision for residential development in the city is one where a wide range of high-quality accommodation is available within sustainable communities, where residents are within easy reach of open space and amenities as well as facilities such as shops, education, leisure and community services.
- 8.5.24. The appeal site is located with DCC's North Central Area. Section 4.1.5 of the Dublin City Council Parks Strategy 2019 indicates that there is 54.11 sqm of open space per person in the North Central Area. When compared to 36.47sqm per person in the overall DCC administrative area, the area can be considered to be well served in terms of open space.

- 8.5.25. The subject site is located within 1km of two Flagship Parks namely St. Annes Park and Bull Island. There does not appear to be a deficit of community parks or open spaces in the vicinity of the site.
- 8.5.26. In the case of 'little green' a small green space situated in the Monastery Crescent housing estate in Clondalkin, this relates to a disputed residential plot of land regarding property rights and public access. A Section 5 referral case at 36 Monastery Crescent, Clondalkin, was decided by the Commission under RL06S.318936. The referral was in relation to whether the erection of gate from private to public space and change of use from publicly accessible open space to private use is or is not development or is or is not exempted development. The determination issued 09/04/2025 found that the works constitutes development and is not exempted. In the Dublin District Court case Howell v McElwee the case was dismissed by Judge Hayden 31st July 2025 on the grounds that Mr. Howell had produced no evidence to prove ownership.
- 8.5.27. I accept that the area of open space which forms part of the current appeal may formerly have functioned as public open space. However, with the passing of time and more recently as a result of an agreement reached through the District Court between the applicant and DCC, the applicant has demonstrated that the larger area of open space is now in private ownership. It is clearly shown as part of the subject site outlined in red. A smaller area of open space clearly identified on the annexed map is to be take in charge by the PA.
- 8.5.28. I am satisfied that in relation to establishing ownership of this area of open space, the applicant has addressed the issue by way of a Court Order. I would also note that the proposed development is acceptable to the Parks Division of the PA.

Summary

- 8.5.29. I am satisfied that the proposed development would be in accordance with Policy QHSN6, Section 15.5.2 and Section 15.13.3 of the Dublin City Development Plan 2022-2028, would not be seriously injurious to residential amenity, and would not therefore, materially contravene the residential zoning objective for the area. On this basis the decision of the PA to grant permission should be upheld.

8.6. Access and Parking

- 8.6.1. Concerns are raised in the observation to the appeal in relation to the provision of a single car parking space per unit car and that any additional cars or visitors' cars will have to park on Chelsea Gardens.
- 8.6.2. It is proposed to provide a new entrance from Chelsea Gardens with a width of 3.2m. All 3 no. parking spaces are proposed at the northwest side of the site, in front of House C.
- 8.6.3. According to Map Set J of the Dublin City Development Plan, the subject site falls within a Zone 3 parking area. The Development Plan stipulates a requirement of 1 car parking spaces per dwelling in Zone 3 designated areas.
- 8.6.4. The Transportation Division of the PA notes that the site is 'within 500m walking distance of reasonably frequent urban bus services (Dublin Bus route no. 130) on Seapark Road. This service is planned to be improved to a high frequency service (route no. 10) as part of the Bus Connects Network Redesign.'
- 8.6.5. I concur with the PA that the site constitutes an 'Accessible' location in accordance with the definitions under Table 3.2 of the 'Sustainable and Compact Settlements Guidelines for Planning Authorities' (2024).
- 8.6.6. I am satisfied that parking provision proposed is in accordance with current County Development Plan car parking standards and would also note that the parking standards are maximum requirements. I am also satisfied given the location of the subject site within walking distance of high frequency public transport corridors and essential daily services including schools, that the provision of a reduced no. of car parking spaces is appropriate at this location. This will not only promote active travel but also lead to a more sustainable development.
- 8.6.7. I am satisfied that the site constitutes an accessible location in accordance with the criteria of the Compact Settlement Guidelines (2024), given the availability of public transport and that a reduced parking provision below the maximum standard would be acceptable on this basis.

Summary

- 8.6.8. The proposed development includes the provision of 1 no. car parking space per dwelling and is therefore in compliance with the car parking standards set out in the Dublin City Development Plan 2022-2028.

8.7. Planning Precedent

- 8.7.1. The applicant has cited a number of examples of planning decisions to grant permission for dwellings in the vicinity by DCC which it submits sets a precedent for the proposed development. These include
- PA Reg. Ref. 3799/24: 2, Lawrence Grove, Clontarf, Dublin 3.
 - PA Reg. Ref. 2588/21: 65-67, Seafield Road East, and
 - PA Reg. Ref. 2988/19: 1&3, Lawrence Grove, Clontarf, Dublin 3
- 8.7.2. I have examined the planning cases cited above and acknowledge that they do refer to cases in residential areas for multiple houses in close proximity to the subject site. Notwithstanding, all appeal cases are assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development. I am satisfied that the proposed development does not set an undesirable precedent.

9.0 AA Screening

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

The subject site is not located within a designated site, with the nearest sites being South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and North Dublin Bay SAC (Site Code 000206) located c.0.5km to the south of the site.

No nature conservation concerns were raised within the appeal. 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:

- The nature of the development proposed which is located on serviced lands.

- The distance to the nearest European sites, and the absence of any hydrological or other pathways
- Connection to public water, drain and sewer.

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

10.0 Water Framework Directive

- 10.1. The subject site is located approximately c.2.6km east of the River Tolka. The proposed development comprises the construction of 3 new dwellings and all associated site works to the west of No. 22 Chelsea Gardens and the north of No. 91 Kincora Road, Clontarf, Dublin 3. No water deterioration concerns were raised in the planning appeal.
- 10.2. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks 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.
- 10.3. The reason for this conclusion is as follows.
- Scale and size of proposed development
 - Separation to nearest water body
 - Connection to public water, sewer and drainage
- 10.4. 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 permission be **granted** subject to conditions for the reasons and considerations as set out below.

12.0 Reasons and Considerations

Having regard to the infill nature of the proposed development located on lands zoned 21 Sustainable Residential Neighbourhoods in the Dublin City Development Plan 2022-2028, the policies and objectives of the development plan and in particular policies QHSN6 (Urban Consolidation) and QHSN04 (Densification of Suburbs) which support residential consolidation, intensification and densification, the development standards set out in the plan, the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), it is considered that, subject to compliance with conditions set out below, the proposed development would be an appropriate form of development on this serviced, under-utilised land and would be acceptable in terms of density and the residential amenity of future residents; would not seriously injure the character of the area or the residential amenities of property in the vicinity; would be acceptable in terms of pedestrian and traffic safety; and would not be likely to have a significant effect on European sites. The proposed development would accord with the zoning objectives, policies and provisions of the Dublin City Development Plan 2022-2028 and 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 4th day of March 2026, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning

authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

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

Reason: In the interest of visual amenity.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of landscape and taking in charge requirements in compliance with Guidelines for Open Space Development and Taking in Charge and Landscape Completion Report Guide (Parks, Biodiversity & Landscape Services Division Dublin City Council), and in the interest of amenity and to promote biodiversity.

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

Reason: In the interests of public health and surface water management.

5. Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann to provide for service connections to the public water supply and wastewater collection network.

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

6. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the Interests of visual and residential amenity.

7. The developer shall comply with the following transportation planning requirement of the planning authority:
- (a) The vehicular entrance shall be a maximum of 3.2 metres in width and shall not have outward opening gates.
 - (b) Footpath and kerb shall be dished and new entrance provided to the requirements of the planning authority.
 - (c) All costs incurred by the planning authority, 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 traffic and pedestrian safety and Volume 2, Appendix 5 of the Dublin City Development Plan 2022 - 2028.

8. A maximum of three number parking spaces, only, are permitted to serve the proposed dwellings on site.

Reason: In the interest of public safety and the proper planning and sustainable development of the area.

9. **All** of the in-curtilage car parking spaces serving the residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points.

Reason: In the interest of sustainable transportation.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

11. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviations 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.

12. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

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

13. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

14. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the planning authority's Taking in Charge Housing Estate Policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

15. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 the 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 developers, 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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.”

Susan McHugh
Senior Planning Inspector

29th July 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	PL-501238-DN-26
Proposed Development Summary	Construction of 3 dwellings and all site associated works.
Development Address	Lands to the west of No. 22 Chelsea Gardens and the north of No. 91 Kincora Road, Clontarf, Dublin 3.
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?	☒ Yes, it is a 'Project'. Proceed to Q.2.
	☐ 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)?	
☐ Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	Part 2, Schedule 5, Class 10 Infrastructure Projects – (b) (i) Construction of more than 500 dwelling units. (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.

☐ No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
☐ No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
☒ Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	The number of housing units proposed in this instance is 3 which is significantly below the 500-unit threshold. The site area is c. 0.0859 ha. gross is also below the 10ha threshold for urban development in other parts of a built-up area that's not a business district.
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes ☐	

No ☒	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Appendix 2: Form 2 - EIA Preliminary Examination

Case Reference	PL-501238-DN-26
Proposed Development Summary	Construction of 3 dwellings and all site associated works.
Development Address	Lands to the west of No. 22 Chelsea Gardens and the north of No. 91 Kincora Road, Clontarf, Dublin 3.
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).	Permission is being sought for the construction of three no. 2 storey plus dormer dwellings which is located to the side of No. 22 Chelsea Gardens and the North of No. 91 Kincora Road, Clontarf, Dublin 3. Access to the dwellings is provided from Chelsea Gardens via a widened shared entrance. Water connection and wastewater services will be provided from existing mains within the vicinity of the subject site. The development would not result in the production of significant waste, emissions, or pollutants.
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,	The proposed site is located within an urban area; there are no significant sensitivities in the immediate area. The subject site is not located within a designated site, the nearest are as follows: • South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and North Dublin Bay SAC (Site Code 000206) are situated c.0.5km to the south of the site. • North Bull Island SPA (Site Code 004006).is situated c.0.63km to the east of the site. My appropriate assessment screening concludes that the proposed development would not likely have a significant effect on any European Site.

landscapes, sites of historic, cultural or archaeological significance).	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	The site size measures c.0.0859 ha. The size of the development is not exceptional in the context of an urban environment. There are existing dwellings adjacent to the proposed site, to the east and south. The proposed development is a relatively small development in the urban context. There is no real likelihood of significant cumulative effects within the existing and permitted projects in the area.
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.

Inspector: _____ Date: _____