



An
Bord
Pleanála

Inspector's Report ABP-321649-25

Development	Construction of a house and all associated site works.
Location	36A Dodsborough Cottages, Lucan, Co. Dublin, K78 F9P6
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD23A/0323
Applicant	Aijaz Ali
Type of Application	Permission
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	Third Party
Appellant	Brian Holland
Observers	None
Date of Site Inspection	20 th February 2025
Inspector	Jim Egan

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1.0 Site Location and Description

- 1.1. The subject site, irregular in shape with a stated area of 0.0493 ha, comprises part of the side / rear garden of 36A Dodsborough Cottages, located within a residential area of Lucan in west County Dublin.
- 1.2. Dodsborough Cottages is a c. 1930s housing estate comprising semi-detached and terraced two-storey dwellings. The development of the Shackleton housing estate has created new road frontage to the rear gardens of those dwellings on the southern side of Dodsborough Cottages, with a large majority of the rear gardens having already been developed with infill detached dwellings.
- 1.3. The site is bounded to the west / north-west by the residual grounds of No. 36A Dodsborough Cottages; to the north by the rear garden of No. 36 Dodsborough Cottages; to the east by No. 38A Dodsborough Cottages which comprises a newly built infill / backland two-storey dwelling accessed off Shackleton Avenue; and to the south by a grass strip located between the site and a cycle track on Shackleton Avenue. Development on the southern side of Shackleton Avenue (facing towards the appeal site) comprises a terrace of two/three storey red brick fronted dwellings with on-curtilage car parking.
- 1.4. Boundary treatments to the site comprise a timber post and rail fence fronted by a row of juvenile trees to Shackleton Avenue to the south, a concrete block wall to the boundaries with No. 36 and No. 36A Dodsborough Cottages to the west and north, and a concrete post and timber panel fence to No. 38A Dodsborough Cottages to the east.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a two-storey, four-bedroom, detached dwelling (c. 185sq.m) in the side / rear garden of No. 36A Dodsborough Cottages. The proposed dwelling has a floor area of c. 185sq.m, depth of c. 10.6m positioned c. 900mm from the eastern property boundary and a dutch-gable style pitched roof with a ridge height of c. 9.472m. The proposal includes alterations to the southern boundary with Shackleton Avenue to create vehicular access with 2no. on-curtilage car parking spaces.

2.2. Further information, submitted on the 12th November 2024, provided revised drawings to clarify the proposed access arrangement and boundary treatment to Shackleton Avenue, and documentation to clarify land ownership and consent. By association, a submitted revised site layout plan also showed the dwelling repositioned further within the site, whereby the distance from the rear / northern boundary is reduced by c. 1.7m from c. 12.937m to c. 11.218m, which results in a corresponding increase in the setback from the front boundary to Shackleton Avenue. The design of the dwelling itself, in terms of floor area and principal dimensions appears to have been unchanged at further information stage.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was granted subject to 13 no. conditions.

- Conditions 2, 3 and 6 require the submission of drawings / documentation to be agreed with the planning authority prior to development commencing. Condition 2(a) requires a landscape plan whilst Condition 2(b) requires the preparation of a tree survey, arboricultural impact assessment and tree protection plan along with details of compensatory planting to replace 7 no. trees to be removed to facilitate the development. Condition 3 requires the submission of revised plans in respect of the proposed entrance on Shackleton Avenue.
- Condition 5 requires that all windows on the eastern elevation at first floor level are to be fitted with obscure glazing, whilst Condition 10 requires that external finishes harmonise in colour and texture with the adjacent properties.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two Planner's Reports on file, the first one dated 12th February 2024, and the second, following the receipt of Further Information, dated 9th December 2024.

The following main points were made in the first Planner's Report:

- The proposed development is permitted in principle under the 'RES – Existing Residential' zoning objective which applies to the site, subject to compliance with relevant provisions in the Development Plan.
- There is a strong precedent for similar type backland development in the vicinity of the site, characterised by a variety in dwelling form and finishes.
- The proposal would represent a similar scale of development permitted in the immediate area and would generally integrate with the surrounding properties and streetscape.
- The internal areas and private open space meet the required standards.
- The proposed dwelling would not adversely impact on the amenity of existing adjacent properties by way of significant overbearing appearance or overshadowing.
- The proposed two-storey dwelling would be located entirely behind the two-storey element of a dwelling permitted on the adjoining site to the east (referring to the appellant's dwelling permitted under P.A. Ref. SD19A/0061). While the proposed dwelling has the potential to impact the adjoining permitted dwelling by way of visual impact and overshadowing, construction of the adjoining permitted dwelling has not yet commenced and permission for same is due to expire in July 2024. The established pattern of backland development and stepped building lines of same is noted in this regard.
- Clarification required on discrepancy in red line boundary between site location map and site layout plan, and landowner consent to be submitted, if necessary.
- Refers to internal reports received and recommendations for further information in respect of the proposed access onto Shackleton Avenue, surface water management and landscaping / tree survey.

Further Information was requested on the 12th February 2024 in relation to the following:

1. Submit clarification / revised drawings on the red line boundary where the site interfaces with Shackleton Avenue, and landowner consent is required. Further details required on the interface with the grassed area and cycle track on Shackleton Avenue.

2. Submit revised drawings to adequately show proposed entrance details.
3. Submit a landscape plan together with a tree survey, arboricultural impact assessment and tree protection plan along with details of compensatory planting to replace 7 no. trees to be removed to facilitate the development.
4. Submit drawings to detail SuDS measures to manage surface water generated by the development.

The second Planner's Report made the following points in respect of the further information received on the 12th November 2024:

- Item 1 – Revised plans and other documentation have addressed the issue with regards the red line boundary and land ownership. Details on landscaping as required under Item 3 not provided.
- Item 2 – Referring to an internal report from the Roads Department, further modifications to the entrance, including reduced width to 5m, can be conditioned.
- Item 3 – Referring to an internal report from the Public Realm and Parks Department, the details required under Item 3 were not submitted. Such details can be required by condition.
- Item 4 – Referring to an internal report from the Water Services Department, details to satisfy SuDS requirements can be conditioned.
- As a matter of clarity, the planning officer noted that the permitted dwelling on the adjoining site to the east (appellant's dwelling) was, at that point, substantially complete. The following is a summary of the points made in the planner's report in respect of amenity impact:
 - Due to its positioning, the proposed dwelling would result in a degree of overshadowing of the rear / open space to the immediate rear of the adjoining dwelling.
 - However, the subject site is zoned 'RES - Existing Residential', with a strong precedent for backland development on lands in the immediate vicinity of the subject site along a stepped / staggered building line reflecting the alignment of Shackleton Avenue and Shackleton Way.

- Having regard to same, backland / infill development at the subject site is acceptable. A condition on a grant of permission can require windows on the eastern elevation at first floor level to be fitted with obscure glazing to mitigate undue overlooking.
 - On balance the subject development is acceptable with regard to the residential and visual amenities of the area and would be consistent with the 'RES' land use zoning objective of the site.
- Recommended a grant of permission, subject to conditions.

3.2.2. *Other Technical Reports*

Roads Department: Report dated 22nd December 2023 recommended that further information be sought with regards the proposed vehicular entrance. These concerns were reflected in the request for further information. In response to further information received, a report dated 15th November 2024 advised that the proposed entrance width of 7.215m exceeded the normally permitted maximum driveway width of 3.5m, but that in this instance, the department is satisfied with increasing the maximum width allowed to 5m. The report also recommended that the boundary walls and piers at the entrance be reduced to 0.9m and 1.2m, respectively, and that sightline drawings and swept path analysis be submitted. The planning authority included a condition in this regard (Condition 3).

Public Realm and Parks Department: Report dated 09/01/2024 recommended that further information be sought with regards SuDS, landscaping, tree survey and compensatory tree planting. These concerns were reflected in the request for further information. In response to further information received, a report dated 2nd December 2024, recommended clarification of further information be sought on the above issues. The planning authority included conditions on the grant of permission in respect of SuDS, landscaping and tree planting (Conditions 2 and 4).

Environmental Health Officer: Report dated 28th December 2023 raised no objection to the proposed development, subject to standard conditions with regards construction works.

Water Services: Report dated 5th January 2024 raised no objection to the proposed development, subject to conditions with regards the provision of SuDS measures to

manage surface water, and no objection in respect of flood risk. These concerns were reflected in the request for further information. In response to further information received, a report dated 5th December 2024 again raised no objection to the proposed development, subject to conditions with regards the provision of SuDS measures.

3.3. Prescribed Bodies

Uisce Eireann

A submission dated 12th December 2024 raised no objection subject to standard conditions in relation to water service connection agreements.

3.4. Third Party Observations

4 no. observations were made on the application, summarised as follows:

Brian Holland (appellant), 38A Dodsborough Cottages

This observation was made by the owner of the dwelling which has since been completed on the site adjoining the appeal site to the east and generally reflects the content of the third-party appeal. Grounds of appeal are discussed in greater detail under Section 6.0 below.

Paddy Gray, 8 Shackleton Crescent

- Landowner consent required for access to the site from Shackleton Avenue
- A grant of permission to include a condition to restrict obstruction of footpaths during construction.

John Paul O'Keefe, 9 Shackleton Avenue

- Proposal should comply with minimum standards in terms of house size, open space and boundaries.
- Proposal incorporates part of green area adjoining Shackleton Avenue. Planning authority to verify that landowner consent was sought and that the proposal accords with permission granted for Shackleton under ref. SDZ16A/0003.

- A grant of permission to include a condition to restrict obstruction of footpaths during construction.

Ranjith Raman, 10 Shackleton Avenue

- Requests that construction stage does not impact on the boundaries, green spaces and pedestrian / cycle paths within Shackleton Avenue.
- Requests that construction is carried out during normal hours and does not pose a risk or cause any inconvenience to residents of Shackleton Avenue.

4.0 Planning History

4.1. Subject Site

None pertaining to the site however the following permission is relevant to the green strip across which access to the development is proposed:

P.A. Ref. SDZ16A/0003 – Adamstown SDZ - refers to a 2017 grant of permission to Cairn Homes Properties Ltd. for 267 dwellings and associated landscaping, roads and all associated site development and infrastructural works.

4.2. Surrounding Area

Infill / backland development in rear gardens of Dodsborough Cottages:

P.A. Ref. SD19A/0061 – appellant's dwelling, grant of permission for a two-storey, five-bedroom detached dwelling to the rear of No. 38 Dodsborough Cottages.

P.A. Ref. SD18A/0377 –refers to a grant of permission for a three-storey, four-bedroom detached dwelling to the rear of No. 39 Dodsborough Cottages.

P.A. Ref. SD18A/0101 –refers to a grant of permission for a two-storey, five-bedroom detached dwelling to the rear of No. 41 Dodsborough Cottages.

P.A. Ref. SD19A/0217 –refers to a grant of permission for a three-storey, four-bedroom detached dwelling to the rear of No. 42 Dodsborough Cottages.

5.0 Policy Context

5.1. Project Ireland 2040 National Planning Framework (NPF)

The National Planning Framework addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the creation of high-quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

National Policy Objective 3a - Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

National Policy Objective 35 -Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.2. National Guidance

Sustainable Residential and Compact Settlement Guidelines for Planning Authorities, 2024

The Sustainable Residential and Compact Settlement Guidelines for Planning Authorities, 2024 (the Compact Settlement Guidelines) set out national planning policy and guidance in relation to the creation of settlements that are compact, attractive, liveable and well designed. There is a focus on the renewal of settlements and on the interaction between residential density, housing standards and placemaking to support the sustainable and compact growth of settlements.

Development standards for housing are set out in Chapter 5, including SPPR 1 in relation to separation distances, SPPR 2 in relation to private open space, SPPR 3 in relation to car parking and SPPR 4 in relation to cycle parking and storage.

Delivering Homes, Sustaining Communities and accompanying best Practice Guidelines – Quality Housing for Sustainable Communities, 2007

The purpose of these Guidelines is to assist in achieving the objectives for delivering homes, sustaining communities contained in the Government statement on housing

policy which focuses on creating sustainable communities that are socially inclusive. Development standards for housing are set out in Table 5.1.

5.3. Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in.

The site is located within 'Dublin City and Suburbs'. The followings RPOs are of particular relevance:

- **RPO 3.2:** Local authorities, in their core strategies shall set out measures to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- **RPO 4.3:** Support the consolidation and re-intensification of infill/brownfield sites to provide high density and people intensive uses within the existing built-up area of Dublin city and suburbs and ensure that the development of future development areas is co-ordinated with the delivery of key water infrastructure and public transport projects.

5.4. South Dublin County Development Plan 2022-2028

Land Use Zoning

The site is subject to land use zoning "Existing Residential (RES)" which has the objective "*to protect and/or improve residential amenity*".

Chapter 4 – Green Infrastructure

GI4 Objective 1: To limit surface water run-off from new developments through the use of Sustainable Drainage Systems (SuDS) using surface water and nature-based solutions and ensure that SuDS is integrated into all new development in the County

and designed in accordance with South Dublin County Council's Sustainable Drainage Explanatory Design and Evaluation Guide, 2022.

Chapter 6 – Housing

Residential Consolidation in Urban Areas

Policy H11: Privacy and Security Promote a high standard of privacy and security for existing and proposed dwellings through the design and layout of housing.

H11 Objective 4: To ensure that opposing balconies and windows at above ground floor level have an adequate separation distance, design or positioning to safeguard privacy without compromising internal residential amenity.

Policy H13: Residential Consolidation: Promote and support residential consolidation and sustainable intensification at appropriate locations, to support ongoing viability of social and physical infrastructure and services and meet the future housing needs of the County.

H13 Objective 2: To maintain and consolidate the County's existing housing stock through the consideration of applications for housing subdivision, backland development and infill development on large sites in established areas, subject to appropriate safeguards and standards identified in Chapter 12: Implementation and Monitoring.

H13 Objective 5: To ensure that new development in established areas does not unduly impact on the amenities or character of an area.

Chapter 12 – Development Management Standards

Infill Sites

Development on Infill Sites will be assessed by a range of policies including the following:

- Be guided by the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities DEHLG, 2009 and the companion Urban Design Manual.
- Significant site features, such as boundary treatments, pillars, gateways, and vegetation should be retained, in so far as possible, but not to the detriment of providing an active interface with the street.

- All residential consolidation proposals shall be guided by the quantitative performance approaches and recommendations under the '*Site Layout Planning for Daylight and Sunlight*' (2nd edition): A Guidelines to Good Practice (BRE 2011) and BS 8206-2: 2008 – '*Lighting for Buildings – Part 2: Code of Practice for Daylighting*' and / or any updated guidance.
- It should be ensured that residential amenity is not adversely impacted as a result of the proposed development.

Backland Development

The design of development on back land sites should meet the criteria for infill development in addition to the following criteria:

- Avoid piecemeal development that adversely impacts on the character of the area and the established pattern of development in the area.
- Demonstrate that there is no undue overlooking, and that overshadowing is assessed having regard to '*Site Layout Planning for Daylight and Sunlight*' (2nd edition): A Guidelines to Good Practice (BRE 2011) and BS 8206-2: 2008 – '*Lighting for Buildings – Part 2: Code of Practice for Daylighting*' or any updated guidance.

Residential Standards

The section of the Plan includes design standards relating to Residential Consolidation including infill sites and backland development.

Section 12.6.7 sets out that all new housing must comply with or exceed the minimum floor area standards contained in the Quality Housing for Sustainable Communities Guidelines, DEHLG (2007), or as may be superseded, by housing standards as set in this section of the Development Plan.

The Plan includes a target of 110sq.m gross floor area and 70sq.m of private open space for 4 bed houses. The Plan also specifies a maximum car parking rate of 1.5 spaces for a 3+ bed house at this location.

Section 12.7.6 relates to car parking design and layout and states that for applications to widen a driveway to accommodate in-curtilage parking, a width of 3.5m between gate pillars shall not normally be exceeded, for reasons of pedestrian safety and visual amenity and to retain on-street parking spaces.

5.5. Adamstown SDZ Planning Scheme 2014, as amended

The appeal site adjoins the Shackleton estate which is located within Development Area No. 4 – Tobermaclugg Village as per the Adamstown SDZ Planning Scheme. The planning scheme outlines Urban Design Characteristics for Area No. 4, including *‘Potential access points to facilitate development of the long rear gardens of Dodsboro housing’*.

5.6. Natural Heritage Designations

The site is not located within or adjacent to any designated sites. The closest European Site is the Rye Water Valley / Carton SAC (Site Code: 001398), c. 2km to the northwest.

The Rye Water Valley / Carton pNHA (Site Code: 001398) is c. 2km to the northwest and the Liffey Valley pNHA (Site Code: 000128) is c. 1km to the north.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third-party appeal was received on behalf of Brian Holland, 38A Dodsborough Cottages, against the decision of the planning authority to grant permission. The appellant's dwelling directly adjoins the appeal site to the east. The grounds of the appeal can be summarised as follows:

Site Boundary

- The letter of consent issued by Cairn Homes allows for access and right of way to the site from Shackleton Avenue and does not give consent for the applicant to extend the development boundary into the green space of Shackleton Avenue to facilitate other elements of the proposed development, namely part of the dwelling footprint and parking area to the front.
- The appellant has submitted a site layout plan illustrating how he believes the proposed development would sit in the context of the southern boundary to Shackleton Avenue, showing that the southwestern corner of the proposed dwelling would over sail the boundary.

- The proposed development, by reason of the boundary encroaching on the grassed area, removes part of the area of public open space for the Shackleton estate.

Height and Position of Dwelling / Overdevelopment

- The back garden of No. 36 Dodsborough Cottages was previously subdivided to facilitate the construction of the single storey dwelling at No. 36A. Further works would be considered to be overdevelopment of the site.
- While noting the stepped building line fronting Shackleton Avenue, it would never have been intended to allow a dwelling positioned fully behind an adjoining dwelling.
- Contends that the block outline of the appellant's dwelling is not correctly depicted on the submitted site layout plan and that the front building line of the proposed dwelling would be positioned further beyond / north of the appellant's rear building line. The appellant has submitted a drawing representing what he considers to be the true representation of how the proposed dwelling would sit in the context of his constructed dwelling.
- By reason of siting, height, depth and separation to the eastern boundary, the proposed dwelling will overbear and overshadow the rear garden of the appellant's dwelling.
- By reason of its positioning / front building line, there would be overlooking of the ground floor rear living space of the appellant's dwelling from the first-floor windows on the front elevation of the proposed.
- The appellant commissioned the preparation of a shadow study (submitted with the appeal) to demonstrate the impact of the proposed dwelling on the rear garden of his property.

Front and side boundary walls, pillars and gates

- By reason of its alignment and height at 1.8m, the proposed boundary wall to the front of the site would impede the sightline to the west for the appellant, as it would for the applicant, when accessing out onto Shackleton Avenue.

Vehicular Entrance

- Council's Roads Department sought clarity on the proposed entrance, recommending a condition that required the entrance to be no more than 3.5m wide. The appellant is of the understanding that the 3.5m wide entrance is a national requirement to allow two cars to pass while safeguarding pedestrians.
- Planning authority's grant of permission allows a 5m wide entrance in the absence of any swept path analysis.

6.2. Applicant's Response

None received.

6.3. Planning Authority Response

A response was received on the 23rd January 2025 in which the planning authority confirms its decision and notes that the issues raised in the appeal have been covered in the Chief Executive Order.

6.4. Observations

None received.

6.5. Further Responses

None received.

7.0 Assessment

Having examined the appeal details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant policies and guidance, I consider that the main issues in this appeal are as follows:

- Procedural Issues
- Principle of Development
- Residential Amenity
- Vehicular Access
- Public Open Space – Shackleton Estate

- Other Matters

The issue of appropriate assessment screening also needs to be addressed.

7.1. Procedural Issues

- 7.1.1. The appellant has raised concerns with regards the proposed development encroaching on the grass strip of Shackleton Avenue, contending that the letter of consent issued by Cairn Homes and submitted by the applicant as further information relates only to access and right of way from Shackleton Avenue and does not give consent to develop within this area. In this regard, the appellant, by reference to a site layout plan prepared on his behalf and submitted with the appeal, contends that part of the proposed dwelling, in addition to part of the front car parking area, would be positioned on the grass strip of Shackleton Avenue.
- 7.1.2. The planning authority raised the issue of the application site boundary and landowner consent at further information stage. In response, the applicant submitted a revised site layout plan confirming land ownership (existing fence line) and showing that the footprint of the proposed dwelling would be located within the site boundary.
- 7.1.3. The amended site layout plan also shows that the driveway / front yard of the proposed dwelling would extend into the grass strip of Shackleton Avenue, with this area of land referenced on the drawing as an 'agreed right of way'. The further information submitted also included a copy of a letter, dated November 2017, from Cairn Homes addressed to the owner of the site, confirming agreement to facilitate access and right of way to the site from Shackleton Avenue and giving consent to include same in the making of a planning application for a dwelling on the site.
- 7.1.4. Having regard to the information provided by the applicant, including a letter of consent from Cairn Homes, I am satisfied that the applicant has demonstrated sufficient legal interest to make the planning application. The planning authority was also satisfied with the documentation submitted in this regard.
- 7.1.5. I would also note that a grant of planning permission is subject to the provisions of Section 34(13) of the Planning and Development Act 2000 (as amended), which states that *a person shall not be entitled solely by reason of a permission under this section to carry out any development*. This provision of the Act would have relevance in the execution by the applicant of works within the grass strip of Shackleton Avenue.

- 7.1.6. The above issues raised by the appellant are of a procedural nature, having no implications on my assessment of the proposed development.

7.2. Principle of Development

- 7.2.1. The proposal seeks permission for the construction of a new detached dwelling in a side / rear garden of a residential property. National Policy Objective 35 and Regional Policy Objective RPO 4.3 seek to consolidate Dublin City and its suburbs through a range of measures including infill residential development, whilst County Development Plan Policy H13 promotes and supports residential consolidation and sustainable intensification at appropriate locations. It is also noteworthy that the Adamstown SDZ Planning Scheme sought that provision be made for potential access points to facilitate development of the long rear gardens of houses on Dodsborough Cottages.
- 7.2.2. The site is located on lands which are subject to 'Existing Residential (RES)' under the current South Dublin County Development Plan, the objective of which is "to protect and/or improve residential amenity". Residential use is Permitted in Principle under this zoning objective.
- 7.2.3. Having regard to the pattern of infill / backland development in the vicinity, the zoning objective for the site and the national, regional and local policy support for infill housing, I am satisfied that the principle of an additional dwelling is acceptable at this location.

7.3. Residential Amenity

- 7.3.1. The principal concern raised in the third-party appeal relates to the perceived impact of the proposed dwelling on the residential amenity of the appellant's dwelling which adjoins the appeal site to the east. The appellant contends that by reason of scale, height, building line and proximity to the shared boundary, the proposed dwelling would adversely impact on the amenity of the appellant's dwelling and back garden by way of overbearing, overshadowing and overlooking.
- 7.3.2. The initial planner's report, dated 12th February 2024, noted that construction of the appellant's dwelling had, at that time, not commenced. The second planner's report, dated 9th December 2024, prepared in respect of further information received, acknowledged that the appellant's dwelling was, at that time, substantially complete.

In respect potential impact of the proposed dwelling on the amenity of the appellant's dwelling, the planning authority considered that there would be a degree of overshadowing on the rear garden of the appellant's property however in having regard to the pattern of development in the area, including the staggered / stepped building line, and zoning objective for the site, concluded that the proposed development was acceptable. The planning authority included a condition which requires windows on the eastern elevation at first floor level to be fitted with obscure glazing, to avoid overlooking to the appellant's property.

- 7.3.3. As stated previously, the site is zoned Existing Residential (RES)" which has the objective "*to protect and/or improve residential amenity*". H13 Objective 2 of the County Development Plan supports infill and backland housing developments subject to appropriate safeguards and standards outlined in Chapter 12 (development management standards), whilst H13 Objective 5 seeks to ensure that new development in established areas does not unduly impact on the amenities or character of an area.
- 7.3.4. Chapter 12, Section 12.6.8 sets out the development management standards for infill and backland housing developments including that a proposal should ensure that residential amenity is not adversely impacted and that there is no undue overlooking and that overshadowing is assessed having regard to 'Site Layout Planning for Daylight and Sunlight' (2nd edition): A Guidelines to Good Practice (BRE 2011) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' or any updated guidance.
- 7.3.5. The site has an irregular shape with the south / southwestern boundary following the original field boundary which is now delineated by the alignment of Shackleton Avenue and associated cycle path and adjacent grass strip, and as a result the site narrows towards the front / south with the developable area towards the middle and rear. The proposed dwelling is positioned to face due south which is consistent with the pattern of infill / backland dwellings to the east but places the dwelling at an angle to Shackleton Avenue. Referring to the Site Layout Plan submitted at further information stage, the dwelling has a front building line c. 3m behind the rear building line of the two-storey element, and marginally forward of the rear building line of the rear single storey element, of the appellant's dwelling to the east.

- 7.3.6. Having regard to the submitted site layout plan for the appeal site and also the approved plans under P.A. Ref. SD19A/0061 (appellant's dwelling) I note that the rear garden of the appellant's dwelling has a depth of c. 13.09m and that the rear / northern boundary of the appeal site extends c. 6 to 7m further north than the rear boundary of the appellant's property. The proposed two storey dwelling has a ridge height of c. 9.472m and a depth of c. 10.6m and would be located c. 900mm from the boundary with the appellant's property.
- 7.3.7. I note that the planning authority considered that the proposal was acceptable by reason of the staggered / stepped building line established in the vicinity of the site. The closest comparable relationship in this regard is the relationship between the appellant's dwelling and the dwelling permitted and constructed on the infill /backland site adjoining on its east side, No. 39A Dodsborough Cottages. The appellant's dwelling has a front building line marginally beyond the rear building line of the two-storey element of the dwelling at No. 39A. However, there is a separation distance of c. 4.37m between the side elevation of the dwelling and the eastern property boundary, with a single storey garage in between. During a site inspection, I also observed that the dwelling at No. 39A is built to a level which is marginally, but noticeably, higher than the appellant's dwelling. In my view, while the staggered / stepped building line established in the vicinity is an important consideration, it must be evaluated in the context of the entire proposal. In the case of the appellant's dwelling, the separation distance of c. 4.37m to the eastern property boundary reduces the overbearing effect on the adjoining property, whilst in the case of the appeal site, the proposed dwelling would be built to within c. 900mm of the property boundary.
- 7.3.8. On the basis of the foregoing, by reason of its scale and bulk, particularly in terms of depth and height, its proximity to the eastern boundary in the context of building lines and depth of the appellant's rear garden, I consider that the proposed dwelling would have an undue overbearing impact when viewed from the appellant's dwelling (No. 38A Dodsborough Cottages) and on the amenity of its rear garden.
- 7.3.9. The appellant contends that by reason of its front building line, the first-floor bedroom windows on the front elevation of the proposed dwelling would result in overlooking of his rear garden and ground floor living space.

- 7.3.10. SPPR 1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024, and the relevant County Development Plan residential development standards refer to separation distances between opposing upper floor windows. In this case, the proposed dwelling has a front elevation aligned on the same axis as the appellant's dwelling and therefore, while the front building line is positioned beyond the rear building line of the two-storey element of the appellant's dwelling, the upper floor windows on the front elevation of the proposed dwelling would not oppose upper floor windows on the rear elevation of the appellant's dwelling. Furthermore, the eastern elevation of the proposed dwelling includes 2 no. windows, comprising a ground floor W.C. and split-level landing window. A condition on the planning authority's decision requires windows on the first-floor level of this elevation to be fitted with obscure glazing, albeit relates only to a landing window. If the Board is minded to grant permission, I recommend that this same condition is attached. On the basis of the foregoing, I consider that the proposed development would not result in a loss of privacy by reason of overlooking to the appellant's property.
- 7.3.11. The appellant also contends that the proposed dwelling, by reason of scale and siting, would cause undue overshadowing of his rear garden. The appellant has submitted a shadow study to demonstrate the impact of the proposed dwelling on his rear garden. The shadow study examines the existing and proposed built environment at 9am, 12pm, 3pm and 6pm on April 21st, May 21st, June 21st, July 21st, August 21st and September 21st. I note that the shadow study is not based on the drawings as lodged by the applicant, or amended at further information stage, rather they are based on the appellant's own analysis of how the proposed dwelling would sit in the context of his own as-constructed dwelling on the adjoining site, suggesting that the front building line of the proposed dwelling would sit fully behind the rear building line of the single storey element of the appellant's dwelling.
- 7.3.12. As noted earlier in this report, the planning authority considered that there would be a degree of overshadowing on the rear garden of the appellant's property. The applicant was not requested to submit shadow diagrams.
- 7.3.13. The proposed dwelling, by reason of depth, bulk, height and positioning parallel to and within c. 900mm of the eastern boundary to the appellant's rear garden, would, in my view, result in shadowing of the appellant's rear garden and rear living areas. The

shadow study submitted by the appellant would suggest that the shadowing effect would be at its greatest in late afternoon to evening from April through to August.

7.3.14. In the absence of shadow diagrams prepared and submitted on behalf of the applicant, it is not possible to objectively evaluate this issue. The Board may wish to seek the views of the relevant parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

7.3.15. As a matter of clarity, I am satisfied that by reason of layout and design the proposal would not cause a loss of amenity to other adjoining dwellings to the north-west, north and south. I am also satisfied that the proposed dwelling would meet the minimum standards in respect of internal room sizes and private amenity space.

7.4. Vehicular Access

7.4.1. The appellant raises a number of issues with regards the proposed vehicular entrance and associated boundary walls and piers in the context of landowner consent, which is discussed in Section 7.1 above, and also in the context of road safety, contending that the planning authority's condition which allows a 5m wide entrance is contrary to a national maximum standard of 3.5m, and that the proposed wall and pier heights of up to 1.9m will impede sightlines for both the appellant and the applicant.

7.4.2. Section 12.7.6 of the County Development Plan relates to car parking design and layout and states that for applications to widen a driveway to accommodate in-curtilage parking, a width of 3.5m between gate pillars shall not normally be exceeded, for reasons of pedestrian safety and visual amenity and to retain on-street parking spaces.

7.4.3. A report received from the Council's Roads Department recommended that a condition be attached to a grant of permission requiring the entrance to be a maximum width of 5m and associated boundary walls and piers to be maximum height of 0.9m and 1.2m, respectively. These requirements were carried through by the planning authority in Condition 3 on the permission.

7.4.4. The site layout plan submitted at further information stage showed an entrance width of c. 7.215m between the piers, with the entrance to be set back c. 1.1m from the edge of the cycle track on Shackleton Avenue. The applicant also submitted swept path

analysis to demonstrate how 2 no. on curtilage car spaces could enter and exit the site in a forward direction.

- 7.4.5. The submitted site layout plan and swept path analysis suggests that the entrance width as proposed, in addition to the encroachment of the site on the grass strip of Shackleton Avenue, is required to facilitate entry and exit in a forward direction.
- 7.4.6. During a site inspection, I observed that dwellings on the southern side of Shackleton Avenue opposite the appeal site have open front boundaries of c. 5m in width and paved front yards facilitating 2no. on-curtilage car parking spaces. On this basis, I consider that a 5m wide entrance to the appeal site would not represent a departure from the pattern of development in the immediate vicinity. However, the entrance to the proposed dwelling is across a designated cycle track on Shackleton Avenue, which, by reference to the current Adamstown SDZ Planning Scheme, will connect into a future public park to the west.
- 7.4.7. In my view, from a road safety perspective, particularly safety of cyclists, it is prudent that the applicant be required to demonstrate safe access and egress of vehicles in a forward direction by way of revised swept path analysis and sightline assessment based on a revised entrance width of 5m and reduced boundary wall / pier heights.
- 7.4.8. The Board may wish to seek the views of the relevant parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

7.5. Public Open Space – Shackleton Estate

- 7.5.1. The appellant contends that the proposal results in a reduction in the area of public open space developed as part of the Shackleton estate by reason of the encroachment of the proposed driveway on the grass strip of Shackleton Avenue.
- 7.5.2. One of the Urban Design Characteristics for the area south of the site as outlined under the Adamstown SDZ planning scheme was to make provision for potential access points to facilitate development of the long rear gardens of Dodsborough housing. Furthermore, the grass strip at the location to the rear of Dodsborough Cottages is not identified as open space, formal, passive or otherwise in the Adamstown SDZ planning scheme or on plans approved under P.A. Ref. SDZ16A/0003.

- 7.5.3. On the basis of the foregoing, I am satisfied that the principle of providing access to the appeal site to facilitate backland residential development is well established by reference to the Adamstown SDZ planning scheme and the pattern of development in the vicinity and, furthermore, I consider that the proposal would not reduce designated public open space in the Shackleton estate.

7.6. Other Matters

Landscaping / Trees

- 7.6.1. The Council's Public Realm and Parks Department made recommendations with regards the requirement for a landscape plan, tree survey and compensatory tree planting. Condition 2(a) on the planning authority's decision requires submission of a landscape plan whilst Condition 2(b) requires the preparation of a tree survey, arboricultural impact assessment and tree protection plan along with details of compensatory planting to replace 7 no. trees to be removed to facilitate the development.
- 7.6.2. The submitted site layout plan identifies vegetation within the site and on the eastern boundary with the appellant's property and on the southern boundary to the grass strip on Shackleton Avenue.
- 7.6.3. During a site inspection, I observed that the only vegetation of note are the juvenile trees located on the southern boundary. Having regard to the above conclusions in respect of the proposed site entrance, I consider that the loss of trees to facilitate a 5m wide entrance would not cause an adverse impact on the visual amenity of the area. If the Board is minded to grant permission, I recommend a condition is attached requiring a landscape plan and tree protection plan to be submitted for approval by the planning authority prior to commencement of development.

Surface Water Drainage

- 7.6.4. GI4 Objective 1 of the County Development Plan seeks to limit surface water run-off from new developments by incorporating Sustainable Drainage Systems (SuDS). The Council's Water Services Department and Public Realm and Parks Department made recommendations with regards the requirement for SuDS measures rather than a soakaway as proposed by the applicant. Condition 4 on the planning authority's decision requires the implementation of SuDS measures.

- 7.6.5. I am satisfied that the requirement for the incorporation of SuDS measures can be achieved by condition, if the Board is minded to grant permission.

8.0 EIA Screening

Refer to Form 1 in Appendix 1 (EIA Pre-Screening). Class 10 of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for a development comprising the construction of more than 500 dwellings.

Refer to Form 2 in Appendix 1 (EIA Preliminary Examination). Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

9.0 Appropriate Assessment

Refer to Appendix 2. Having regard to nature, scale and location of the proposed development and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 Recommendation

I recommend that permission be refused.

11.0 Reasons and Considerations

The subject site is located in an area zoned “Existing Residential (RES)” for which the objective is “*to protect and/or improve residential amenity*”, as per the South Dublin County Development Plan 2022-2028. It is considered that by reason of the design of the proposed dwelling in terms of height, depth, scale and bulk in conjunction with its location on the site, the proposed development would have a significant and negative overbearing impact on the adjoining dwelling to the east, contrary to H13 Objective 2

of the South Dublin County Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Jim Egan
Planning Inspector

13th March 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321649-25		
Proposed Development Summary	Construction of a house and all associated site works.		
Development Address	36A Dodsborough Cottages, Lucan, Co. Dublin, K78 F9P6		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	√
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	√		
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	√		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	√	Class 10 - Construction of more than 500 dwelling units	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	√	Pre-screening determination remains as above (Q1 to Q4)	
Yes			

Inspector: _____

Date: _____

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP-321649-25
Proposed Development Summary	Construction of a house and all associated site works
Development Address	Side / rear garden of 36A Dodsborough Cottages, Lucan, Co. Dublin, K78 F9P6
<p>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development comprises the construction of 1 no. infill / backland dwelling and all associated site works on a site with a stated area of c. 0.0493 ha.</p> <p>The development comes forward as a standalone project, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites</p>	<p>The site is not located within or immediately adjacent to any designated site. The proposed development would use the public water and wastewater services of Uisce Eireann, upon which its effects would be marginal.</p> <p>It is considered that the proposed development would not be likely to have</p>

of historic, cultural or archaeological significance).	a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.	
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).	Having regard to the nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____

Date: _____

Appendix 2

AA Screening

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

The site is not located within or immediately adjacent to any European Sites. The closest European Sites, part of the Natura 2000 Network, the site is the Rye Water Valley / Carton SAC (Site Code: 001398), c. 2km to the northwest.

The proposed development is located within a built-up urban area and comprises the construction of 1 no. infill / backland dwelling and all associated site works. The development would be connected to public services including water, sewer and surface water.

The planning authority concluded that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network, and Appropriate Assessment is not therefore required.

Having considered the nature, scale and location of the project, including availability of all mains services and infrastructure, 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:

- Having regard to the absence of any direct hydrological connection from the subject site to any European Site.
- Having regard to the distance of the site from the European Sites regarding any other potential ecological pathways.
- Having regard to the screening report and determination of the planning authority.

On the basis of the above, I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.