



An
Bord
Pleanála

Inspector's Report ABP-302453-18

Development

PROTECTED STRUCTURE:

Construction of a single storey 2-bedroom mews dwelling, new boundary wall, landscaped garden, covered courtyard, associated works.

Location

No. 47, Dunville Avenue, Ranelagh,
Dublin 6

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

3229/18

Applicants

Walsh Interiors Ltd

Type of Application

Permission

Planning Authority Decision

Grant permission

Type of Appeal

Third Party

Appellant

Liam O'Loughnan

Observer(s)

Belgrave Residents Association

Date of Site Inspection

8th November 2018

Inspector

Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located at 47, Dunville Avenue, Ranelagh, Dublin 6. Dunville Avenue lies between Ranelagh and Rathmines. No. 47 accommodates a substantial rear garden the south-western corner of which has an access to a rear laneway behind houses fronting on the eastern side of Killeen Road, and faces Killeen Road. Killeen Road is a residential road ending in a cul-de-sac. A disc parking system is in operation on this road. The laneway is narrow, less than 3 metres in width and incorporates an acute bend there the subject access is located. 47 Dunville Avenue has a large shop at ground floor and two apartments above, to the rear is a substantial walled garden, the rear portion of which comprises the subject site.
- 1.1.2. The site is given as 223 sq m.

2.0 Proposed Development

- 2.1.1. The proposed development is the construction of a single storey 2-bedroom mews dwelling with 4 no. roof lights, new boundary wall, a landscaped garden & covered courtyard to the 2 bedrooms together with associated site & landscape works.
- 2.1.2. The application was accompanied by:
- An Engineering Services Report prepared by Torque Consulting Engineers which refers to foul drainage, surface water drainage, flood risk and water supply,
 - Details of pre-application consultations,
 - A letter from the adjoining landowners to the east confirming that access will be facilitated via their site, during the construction period,
 - A Construction Traffic Management Plan prepared by Traffic Management Design Ltd, and
 - A design statement from Tyndall Architecture & Design which includes: the size of the open space to the rear of the site allows the development of a 2 bedroom house in a single storey building (4 bed spaces) while remaining within the limits of indicative site coverage and plot ratio as set out in the current development plan. The proposed development also conforms with the guidelines for private open space for the 2 apartments on the first floor of the existing structure as well as for the

proposed house as set out at the Quality Housing for Sustainable Communities. The single storey, split level house will not result in any overlooking or overshadowing to the neighbouring properties. Selected stone gravel chippings to the roof will offer a pleasant view from adjoining properties. Proposed site coverage is 60%, plot ratio is 0.79 both within lower limits of indicative standards.

Remaining open space to the main structure is 93 sq m, which is more than required. Open space for the proposed house of 75 sq m is more than adequate; in addition the proposed house will benefit from a covered courtyard of 8.5 sq m to the two bedrooms, and a 12 sq m front yard.

There is no vehicular access. The site is well serviced by public transport, with amenities close by.

There is precedent for mews development along this terrace with two storey mews developments to the rear of Nos 39, 41 & 43 Dunville Avenue.

Appendix 2 to the design statement is a conservation report. No 47 formed the western end of a terrace of 6 two storey houses built c1830's, (Nos 35-47). A photomontage and description of the extended terrace is provided. The proposed development will have no effect to the building fabric or amenities of the protected structure and will have no visual effect to the view of the protected structures.

2.2. Planning Authority Decision

2.3. Decision

2.3.1. The planning authority decided to grant permission subject to seven conditions, including:

4 The developer shall comply fully with the requirements of the Roads & Traffic Planning Division:

- a) Prior to commencement of development, and on appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development including traffic management, hours of working,

noise management measures and off-site disposal of construction / demolition waste.

- b) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.
- c) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: To ensure a satisfactory standard of development.

2.4. Planning Authority Reports

2.4.1. Planning Report

The principle of providing a residential dwelling to the rear of No 47 Dunville Avenue would be acceptable. Having considered the nature of the site and the overall scale of the development it would be considered that the proposal would in fact be more appropriately considered as infill development as opposed to a mews dwelling.

Section 16.10.10 is referred to.

It is considered that the proposal would not result in the loss of amenity or character and setting of the protected structure. The grant of permission would not set a precedent for the development of a mews lane that clearly cannot be achieved along this laneway due to the width of the lane, depth of the rear of dwellings along Killeen Road, and the established pattern of development of properties on the opposite side of the lane.

The current design would not contribute to undue overlooking and would not have an overbearing impact on the properties adjoining and to the rear, in particular the character and setting of the protected structure.

The design approach is considered to be a sympathetic insertion at this location and does appear to be an attempt at creating a design that would complement and protect the character and setting of the streetscape and protected structure.

The residential quality conforms with section 16.10.2. Remaining open space 93sqm – 40-64 sq m required. Open space for the proposed dwelling 75 sq m – 20-32 sq m required.

Recommending permission; which issued.

2.4.2. Other Technical Reports

2.4.3. Engineering Department – Drainage Division: conditions.

2.4.4. Roads & Traffic Planning Division – having regard to the location of the site, and in particular its proximity to the Beechwood Luas stop, the non-provision of dedicated car parking is acceptable in this instance. It is noted that cycle parking can be accommodated within the curtilage of the site.

Having regard to the constraints of the site, the applicant has submitted a Construction Traffic Management Plan. This plan and associated swept path analysis indicates that a pickup truck can access the site via the pedestrian lane off Killeen Road and that a 7.5t panel van can access the site via Dunville Close and the adjoining site to the south. A letter of consent from the adjoining landowner has been submitted. It is noted that some parking will need to be suspended on both Annesley Park and Killeen Road. A condition will apply requiring a Construction Management Plan and Traffic Management Plan to be submitted once a contractor has been appointed.

Recommending conditions.

2.5. **Prescribed Bodies**

The planning authority wrote to An Comhairle Ealaíonn, Fáilte Ireland, The Heritage Council, the Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs, An Taisce & Irish Water. No submissions were received.

2.6. **Third Party Observations**

2.6.1. Third party observations have been read and noted.

3.0 **Planning History**

2198/09 permission for extension to the rear of existing shop at ground level and basement level; refused (intensification of a non-conforming use).

PL 29S.205180 PA Red Ref 3237/03. Retain storeroom to rear of existing showrooms, permission for single door escape to rear of showrooms and retention of access gateway to rear in reduced form as a non-vehicular access; granted.

PL 29S.201494 PA Red Ref 2722/02 permission for parking 2 cars to the rear of 47 Dunville Ave access off Killeen Road; refused.

0169/98 retain existing listed street façade including part demolition to the rear and renovation and extension of existing retail store at ground floor and to extend the residential area at first floor level into two apartments and associated works; granted, including condition that there shall be no vehicular access to the rear of the site from Killeen Road without prior approval.

Pre planning - e-mail 24th March 2017, meeting 16th February 2017.

4.0 Policy Context

4.1. Development Plan

The Dublin City Development Plan, 2016 – 2022 is the operative plan. Relevant provisions include:

The site is zoned Z1 – To protect, provide and improve residential amenities.

Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Policy CHC2 - To ensure that the special interest of protected structures is protected.
- Section 11.1.5.3 - protected structures.
- Section 16.2.1 Design Principles.
- Section 16.2.2.2 Infill Development: To ensure that infill development respects and complements the prevailing scale, architectural quality and the degree of

uniformity in the surrounding townscape. In areas of varied cityscape of significant quality, infill development will demonstrate a positive response to context, including characteristic building plot widths, architectural form and the materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area. Within terraces or groups of buildings of unified design and significant quality, infill development will replicate and positively interpret the predominant design and architectural features of the group as a whole. In areas of low quality, varied townscape, infill development will have sufficient independence of form and design to create new compositions and points of interest and have regard to the form and materials of adjoining buildings, where these make a positive contribution to the area. Infill housing should: Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings; comply with the appropriate minimum habitable room sizes; and have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

- Section 16.1.0.16 Mews Development
 - The host dwelling and adjoining dwellings on Killeen Road are included on the record of protected structures.
 - Part of Killeen Road is a conservation area.

4.2. National Planning Framework - Ireland 2040 - Our Plan

- 4.2.1. This is the Government's long-term strategic planning policy framework to guide national, regional and local planning and also the framework to guide investment decisions over the next 25 years.
- 4.2.2. It emphasises the need for brownfield development and development of infill sites.
- 4.2.3. It includes:

The target is for at least 40% of all new housing to be delivered within the existing built up areas of cities, towns and villages on infill and/or brownfield sites. This requires a holistic approach to ensure that residential and employment development

is served by transport, infrastructure and amenities. It also means ensuring that smaller scale opportunities for infill and brownfield development are realised.

There are many areas in our cities, towns and villages that contain lands and buildings not developed or used to their full potential. To enable brownfield development, planning policies and standards need to be flexible, focusing on design led and performance-based outcomes, rather than specifying absolute requirements in all cases. Although sometimes necessary to safeguard against poor quality design, planning standards should be flexibly applied in response to well-designed development proposals that can achieve urban infill and brownfield development objectives in settlements of all sizes. This is in recognition of the fact that many current urban planning standards were devised for application to greenfield development sites and cannot account for the evolved layers of complexity in existing built-up areas. In particular, general restrictions on building height or universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance-based criteria appropriate to general location, e.g. city/town centre, public transport hub, inner suburban, public transport corridor, outer suburban, town, village etc.

National Policy Objective 11 - In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

National Policy Objective 37 - 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.

4.3. Natural Heritage Designations

- 4.3.1. The South Dublin Bay SAC site code 000210 and South Dublin Bay and River Tolka SPA site code 004024, are the nearest Natura sites, located c 3.5km away.

5.0 The Appeal

5.1. Grounds of Appeal

5.1.1. A third party appeal against the decision to grant permission has been submitted by Liam O'Loughnan, No 2 Killeen Road, adjoining the site. The grounds includes:

- Development standards – permission was granted for infill development, no permission was sought for infill development. The development plan provides standards for mews developments but not for infill development. The application cannot be judged to be in compliance with any standard. There is no reference to infill housing in the development plan.
- Planning History – There is reference in the planning report to history 3237/03 and the 'following conditions' is referred to, which are missing. Condition 1 is significant and addressed further below.
- Loss of amenity – it is stated that the development would not result in the loss of amenity or character and setting of the protected structure No 47 Dunville Avenue. No 2 Killeen Road is also a protected structure. The proximity to the rear of No 2 Killeen Road will have a loss of residential amenity. The distance between the rear kitchen door of No 2 Killeen Road and the rear of the development is 4.5m, with loss of amenity – noise, odour, privacy.
- Loss of amenity - No 2 Killeen Road has first floor windows directly overlooking the proposed development and would provide little privacy to the potential residences and loss of amenity to No 2 Killeen Road; contrary to the planning report.
- Private transportation – non provision of car parking – the third party states that in his experience of living in the area, proximity to public transport does not negate the use of private transport. The actual effect of the proximity to the LUAS stop is that many residents leave their private transport on the road all day. Additional traffic due to visitors was ignored.
- Precedent – the point is that this development would set a precedent on any lane.

- Previous Planning Conditions – condition 1 of 3237/03 – compliance with plans etc. The rear garden was to be developed to provide open space for the residents of the two residential apartments. This has not been complied with to date.
- Land use – the planning report refers to relaxing standards in the interests of ensuring that vacant, derelict and under-utilised land in the inner and outer city is developed. This site was never developed to provide the open space for 2 residential apartments per 3237/03. It should not be considered vacant, derelict or under-utilised land.
- Flooding – reference is made in the engineering report to attenuation for surface water management, releasing it back into the public combined sewer system. Reference is made to a one in one hundred flood and the system’s ability to cope. The site in question is flooded for approximately 9 months of the year in a standard wet year. The source of this water is undetermined and its treatment is not addressed in the Engineering Report. It may be water table/ leak/ tributary or other. Storing and discharging this water would need to be considered as it may require continuous discharge. The existing commercial premises at 47 Dunville Ave was discharging water into the site on a continuous basis for some years. This water may present a risk of flooding to the lower parts of the development / excess water will put pressure on the existing drainage system. It is assumed that the capacity may not include for laneway developments.
- The proposal runs contrary to the objectives of Z1 and Z2 zoning. It is not an improvement to the existing residential amenity of the area, does not adhere to standards, and is not a sustainable development. Standards are referred to, but parking requirement for mews type development is ignored by reference instead to ‘infill’ and unrealistic assumptions about private transport requirements.

5.2. Applicant Response

- 5.2.1. IMG Planning, have submitted a response to the appeal on behalf of the applicant. The response includes:

- Compliance with Development Management Standards – The assessment, based on infill rather than mews, is the prerogative of the planning authority. S16.10.10 sets out the considerations for assessment of infill development.
 - The proposed development complies with these, being – single storey design having particular and detailed regard to proportions, heights, parapet levels and materials of surrounding buildings – 47 Dunville Ave and Killeen Road.
 - Habitable room sizes in excess of criteria.
 - The site has safe means of access and egress that does not result in the creation of a traffic hazard.
- Quality of residential accommodation – CDP refers to 5.3 of Internal Layout and Space Provision contained in the DEHLG Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities – with which the proposed dwelling complies.

Floor areas are set out vis a vis guidelines.

Private open space – CDP requirement is 10 sq m per bedspace and up to 60-70 sq m for a house, the proposed dwelling has 75 sq m, it is to the rear, is private and enclosed, screened from public areas and overlooked from the windows of the living area and kitchen, in accordance with DEHLG requirements. The rear garden to two apartments is reduced to 93sqm – in excess of that required.

- Loss of amenity – there is no basis for the contention that there will be loss of amenity, the distance between the rear elevation of appellant’s house and the rear of the development is 4.8m. It will be completely below the height of the common boundary wall which is approx. 3.5m high. It is impossible for the residents of the proposed dwelling to overlook the rear of the appellant’s property. Re - noise, odour, the proposed development is a house and any noise would be commensurate and no different to what emanates from those existing, including that adjoining the appellant’s property. Re overlooking of open space from appellant’s house – the main part of the open space is positioned on the eastern side of the house and partially enclosed by a

projection of the house, any views there may be will be no different to those between existing houses in the area.

- Access and parking – the proposed use of a site within the built up area of the city is a more important planning objective to providing dedicated car parking and access. The residents could apply for a permit for on-street parking should they choose. A previous permission (elsewhere) for retention of an artist's studio and change of use to single storey residence, without provision of car parking, in 2016, is referred to.
- Surface water drainage and flooding - there is no basis for the contention that the proposed development will have any impact on the drainage systems in the vicinity or result in localised flooding. The Engineering Services Report describes an appropriately sized attenuation system that will store rainwater runoff and release it slowly, designed to accommodate 100 year return period +20% climate change, in accordance with standard engineering practice. This was accepted by City Council Drainage Division. No flood events have been recorded in the vicinity of the site.
- Precedent – it is not accepted that the proposed development creates a precedent.

5.3. Planning Authority Response

5.3.1. The Planning Authority has not responded to the grounds of appeal.

5.4. Observations

5.4.1. An observation has been received from Belgrave Residents' Association, which includes:

- Supporting the points made in the appeal.
- The site is zoned Z1 – To protect, provide and improve the amenities of residential conservation areas.
- It does not meet the requirements for mews houses.

- Infill – the site is landlocked with the exception of less than 3m along the narrow lane off Killeen Road, hemmed between an ESB Networks installation and the site wall of the property at No 4 Dunville Ave. There is no sense in which there is a gap in the architectural composition and the configuration of the first two houses on Killeen Road, with their very restricted rear space, invites the reasonable expectation that a buffer zone of natural open space would be maintained on the subject site.
- It does not lend itself to consideration of infill – per 4.5.3.1 of the CDP.
- DCC granted permission for ‘infill development’, the application does not refer to infill housing in the notices. The application refers to a single storey 2 bedroom mews dwelling and the assessment should be based on these terms.
- Relaxation of standards should be measurable in relation to the standards in Chapter 16 of the DCP and not an outright dispensation.
- Section 16.10.10 states that infill housing should comply with all relevant development plan standards for residential development. The provision that ‘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 in the inner and outer city is developed’, does not exempt any development from the standards.
- Re. vacant, derelict and under-utilised land. The owners have failed to comply with the previous permission. To reward such a failure would be contrary to the principles of proper planning and set a precedent.
- Infill housing should:
 - Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.
 - Comply with the appropriate minimum habitable room sizes.
 - Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

The proposed development would not relate to any building line. There is no wastage of land re the building line. This is a breathing space behind the existing houses, which would be cramped.

One of the habitable rooms would not have any outlook to open space but to a covered courtyard, with no aspect except to blank walls. The proposed open space would be entirely to the north. It is not clear that they would meet the standards in Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice.

The 'safe means of access' clearly assumes provision for vehicular access.

- Parking – the Council has set aside the standard requirement for off-street parking in mews development, due to the proximity to the LUAS stop, which is not borne out by official statistics, and is inappropriate when it is envisaged that the Metrolink project will close the line for up to two years.
- It would be impossible to ensure that one permit or even more will not be issued to occupants as well as visitor parking and no condition to that effect has been included.
- It is not consistent with proper planning to ignore the detailed concerns raised and disregard the negative impact of allowing a mews house to be built without parking on the amenities of Killeen Road residents in particular.
- Flooding – the specialist report overlooks the question of the site being regularly flooded. The report states they have carried out a flood risk assessment based on OPW website and GDSDS. The observers note that there is no evidence of water on the site after the summer, but that there is a significant possibility that the water identified over the years may come from an unidentified underground stream or from drainage into the site from the extensive slope of land to the south. The report does not take account of any flow into the site during a storm event and the attenuation capacity would only be sufficient for the anticipated events with a 20% margin, based on the rain falling directly on the site. This is inadequate. The lower level of the house could act as a dam backing up any underground drainage in the vicinity of the ESB Networks installation or into adjacent properties. This risk is not evaluated.

- There is no specific safety measures indicated in relation to the ESB Networks installation.
- Drainage from the lower section relies on a pump. There is no gravity path for the release of water from the lower part of the site.
- Open Space – the owner has failed to maintain the area for the use of occupants of the apartments. Over the years there has been an erosion of green open space to the rear of houses along Dunville Ave.
- The conservation of the garden would enable remedial action to alleviate water accumulation, and maintenance of vegetation would be positive contribution taking particular account of the fact that the houses which share this outlook to the back have little or no green space to the front.
- Development Plan Standards – It does not meet the essential criteria for mews development, including width of access lane. The decision would set a precedent, open the way for ad hoc planning and breach of standards.
- Scope of Permission – Re. the proposed access onto Dunville Close, even as a temporary arrangement, it is not clear how this would be exempt from the requirement to obtain planning permission. It should have been included in the notices. Residents of Annesley Park, who will be significantly affected by development traffic, have not been afforded the required notice, condition 4 refers.

6.0 **Assessment**

- 6.1.1. The issues which arise in relation to this appeal are: appropriate assessment, environmental impact assessment, the principle of the development, development plan standards, impact on the character and amenities of the area particularly with regard to the protected structures, access and traffic and flood risk and the following assessment is dealt with under those headings.

6.2. **Appropriate Assessment**

- 6.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment no Appropriate Assessment issues arise and it is not

considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

6.3. Environmental Impact Assessment

- 6.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.4. Principle of Development

- 6.4.1. Under the CDP, the site is zoned Z1. Residential is a permissible use within this zone. There is no objection in principle to residential development on this site.

6.5. Policy / Development Plan Standards

- 6.5.1. In both the third party appeal and the observation considerable emphasis is placed on the nature of the development, which is stated in the planner's report to be 'infill development' and in the notices to be a 'mews dwelling'.
- 6.5.2. The application form and notices describe the proposal, including referring to it as a single storey mews dwelling. I am satisfied that the notices give a detailed description which was sufficient to inform the public of the nature of the development and that reference to a mews dwelling did not mislead.
- 6.5.3. The development plan makes provision for mews dwellings because a frequently occurring type of development is the redevelopment of outbuildings located side by side on laneways to the rear of host buildings, and setting out general arrangements for such development served a useful purpose. The subject site does not fit neatly into such a category, but that does not disqualify it from consideration as a potential site for a dwelling.
- 6.5.4. Contrary to what is stated in the third party appeal, the development plan does refer to standards for infill development. As noted earlier in this report the National Planning Framework - Ireland 2040 - Our Plan, places emphasis on infill sites,

stating the need for brownfield development and development of infill sites, to achieve its target for at least 40% of all new housing to be delivered within existing built up areas of cities, towns and villages.

- 6.5.5. It is stated in the grounds of appeal that the site should have been developed to provide the open space for 2 residential apartments per 3237/03, and it should not be considered to vacant, derelict or under-utilised land. The application details and the planner's report demonstrate that open space provision is in excess of that required for both the existing apartments and the proposed development, and that all standards for residential development are achieved.
- 6.5.6. In their acceptance that on-site carparking is not required, the planning authority are supported by National Planning Framework, which states that universal standards for car parking may not be applicable in all circumstances. Similarly, the Board will note that the Sustainable Urban Housing Design Standards for New Apartment Guidelines, sets as a default policy, that car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances, for apartments in urban areas. I am satisfied that in this an area the absence of on-site parking is acceptable.

6.6. Impact on the Character and Amenities of the Area particularly with regard to the Protected Structures

- 6.6.1. The site adjoins and is in the rear garden of a protected structure, and is to the rear of residential properties on Killeen Road, which are protected structures.
- 6.6.2. There will be virtually no visibility of the proposed development, in views from public places, in the context of any protected structure.
- 6.6.3. The third party appeal states that No 2 Killeen Road has first floor windows which directly overlook the proposed development and this would provide little privacy to the potential residents, and loss of amenity to No 2 Killeen Road (including noise and odour). The observation states that the first two houses on Killeen Road have very restricted rear space which invites the reasonable expectation that a buffer zone of natural open space would be maintained on the subject site, which is a breathing space behind the existing houses.

- 6.6.4. The first party response is that there is no basis for the contention that there will be loss of amenity, the distance between the rear elevation of appellant's house and the rear of the development is 4.8m. It will be completely below the height of the common boundary wall which is approx. 3.5m high. It is impossible for the residents of the proposed dwelling to overlook the rear of the appellant's property. Regarding noise and odour, the proposed development is a house and any noise would be commensurate and no different to what emanates from those existing, including that adjoining the appellant's property.
- 6.6.5. There is a particularly high wall separating the site from the adjoining properties and the house design is particularly low profile. It appears to me that impact on the adjoining third party properties was considered to an inordinate extent in arriving at the selected design. In my opinion there is no basis for the argument that this site should be utilised to provide a breathing space for adjoining properties or that any restriction on rear space at these properties should invite an expectation that a buffer zone of natural open space would be maintained on the subject site. Nor do I accept that there will be significant loss of amenity to No 2 Killeen Road, arising from its position overlooking the proposed development, where it will largely overlook a flat roof covered in 'selected stone gravel chippings'.
- 6.6.6. In relation to the impact on the proposed development of overlooking from first floor windows of the adjoining properties, it is noted that several roof windows are proposed. These can be designed to avoid the interior being overlooked. The first party has responded to the issue of overlooking of open space from the appellant's house, stating that the main part of the open space is positioned on the eastern side of the house and partially enclosed by a projection of the house and that any views there may be will be no different to those between existing houses in the area. The inevitability of some overlooking of open space is a fact of urban living and such should not be a reason to refuse permission.

6.7. **Access and Traffic**

- 6.7.1. Permission has previously been refused for development on this site which involved vehicular access. In the subject application no vehicular access is involved. This is acceptable to the Roads & Traffic Planning Division.

- 6.7.2. A Construction Traffic Management Plan was prepared as part of the application. This provides for access during the construction period from both Killeen Road and Annesley Park via Denville Close.
- 6.7.3. The proposed access onto Dunville Close as a temporary arrangement, has been raised as a concern in the observation, which states that it is not clear how this would be exempt from the requirement to obtain planning permission; that it should have been included in the notices so that residents of Annesley Park, who will be significantly affected by development traffic were been afforded the required notice. They point out that condition 4 refers.
- 6.7.4. The proposed access arrangements for the construction phase of development is acceptable to the Roads & Traffic Planning Division, subject to the condition that on appointment of a contractor, a Construction Management Plan, including development traffic management, is submitted to the planning authority for prior written agreement.
- 6.7.5. In relation to the temporary use of a construction access it is worth noting that the Board have in previous referrals determined that a temporary construction access was exempted under Class 16 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001. In my opinion the matter of construction traffic can be adequately addressed by condition; such as condition 4 a) as drafted in the decision. Issues of access and traffic should not be reasons to refuse permission.

6.8. **Flood Risk**

- 6.8.1. Both the third party grounds of appeal and the observation have raised the issue of flood risk, stating that the issue has been inadequately addressed in the application.
- 6.8.2. The application was accompanied by an Engineering Services Report which refers to drainage and flood risk and proposes storm water attenuation with discharge to the combined sewer, which is acceptable to the Engineering Department – Drainage Division. The Engineering Services Report points out that the OPW's National Flood Hazard Mapping has no recorded flood events in the area.
- 6.8.3. In my opinion flood risk should not be a reason to refuse permission.

7.0 Recommendation

- 7.1.1. In the light of the above assessment I recommend that planning permission be granted for the following reasons and considerations and in accordance with the following conditions.

8.0 Reasons and Considerations

- 8.1.1. The proposed development of an accessible and centrally located brownfield site where underutilised land will be replaced by a dwelling, within an area zoned for residential use, will not unduly impact on the amenities of adjoining residential properties, protected structures or conservation areas, and will, subject to the following conditions, be in accordance with the proper planning and sustainable development of the area.

9.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application 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. Water supply and 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 interest of public health and to ensure a satisfactory standard of development.

3. 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:
 - (i) Location of the site and materials compounds including area identified for the storage of construction refuse;
 - (ii) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
 - (iii) Management of construction traffic;
 - (iv) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
 - (v) Arrangements for the carrying out of any repairs to the public road and services necessary as a result of the development, at the expense of the developer.

Reason: In the interest of amenities, public health and safety.

4. 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. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

5. During the construction and demolition phases the proposed development shall comply with British Standard 5228 Noise Control on Construction and open sites Part 1, Code of practice for basic information and procedures for noise control.

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

6. The developer shall pay to the planning authority a financial contribution of €8,212 (eight thousand two hundred and twelve euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

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.

Planning Inspector

29th November 2018

Appendix 1 Photographs

Appendix 2 Extracts from the Dublin City Council Development Plan 2016-2022