



An
Bord
Pleanála

Inspector's Report

ABP-315330-22

Development

Permission is sought for the demolition of an existing garage and the construction of a mews dwelling including the provision of a rear garden with integral car port and the creation of vehicular access off rear laneway including the widening of rear laneway to a minimum 5.5m and ancillary siteworks all in the rear garden.

Location

Rear garden of 17 St. Alphonsus Road Lower, Drumcondra, Dublin 9.

Planning Authority

Dublin City Council.

Planning Authority Reg. Ref.

4904/22

Applicant(s)

Larry Keegan.

Type of Application

Planning Permission.

Planning Authority Decision

Refusal.

Type of Appeal

First Party.

Appellant(s)

Larry Keegan.

Observer(s)

1. Dominic Cooney & Ruth Craggs.

2. Colin & Catherine Melody.
3. Cianan & Orlaith Breenan.
4. Residents of St; Alphonsus Road, a joint submission by Orlaith and Cian Brennan; Dominic Cooney and Ruth Craggs; James and Suzanne Staines; Catherine and Colin Melody; Ann Kavanagh and the Doyle family.
5. IDRA (Iona & District Residents Association).

Date of Site Inspection

14th day of February, 2023.

Inspector

Patricia-Marie Young.

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1.0 Site Location and Description

1.1. The 307m² rectangular shaped appeal site comprises of part of the rear garden area of No. 17 St. Alphonsus Road Lower, a two-storey period terrace dwelling, situated in the city suburb of Drumcondra, Dublin 9. The northern boundary of the site which fronts onto a cul-de-sac service lane contains a single storey garage type building. At this point the lane width is c3.4m. In addition, the lane side boundary at its nearest point is situated c5.5m to the east of the lane's junction with St. Joseph's Avenue. This junction lies c50m to the north of St. Joseph's Avenue's junction with St. Alphonsus Road. No. 17 St. Alphonsus Road Lower forms part of a terrace group with long rear garden areas that are accessible from the aforementioned rear lane. Most of these properties contain garage type structures that are served by a vehicle sized entrance opening onto the lane. There are no dwellings along this lane. The surrounding area has a well-established residential character.

2.0 Proposed Development

2.1. Planning permission is sought for:

- Demolition of an existing garage structure (Note: with a floor area of 40.4m²).
- Construction of a 2-storey 2-bedroom mews dwelling (Note: with a floor area of 84m²) including the provision of a rear garden with integral car port.
- Provision of a vehicular access off rear laneway including the widening of rear laneway to a minimum 5.5m.
- Subdivision of the curtilage of No. 17 Alphonsus Road Lower to accommodate the independent site for the mews dwelling.
- All ancillary siteworks and services.

2.2. According to the accompanying planning application the proposed development would result in a plot ratio of 0.81 and a site coverage of 41% for the curtilage of No. 17 St. Alphonsus Road Lower. In addition, it indicates that water as well as foul drainage would be via connection to an existing supply.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On the 16th day of November, 2022, permission was refused for the following reasons:

“1. Having regard to the scale of the proposed development relative to the site, the narrow width of the laneway, the quality and quantum of the private amenity space to serve the mews and the limited amenity space remaining for no. 17 St Alphonsus Road Lower, it is considered that the proposed development would fail to provide an adequate level of residential amenity for existing and future occupiers, and is contrary to the Dublin City Development Plan 2016-2022 Section 16.10.2 and Section 16.10.10 and accordingly would, therefore, not be compatible with the proper planning and sustainable development of the area. The proposed development would result in an unsatisfactory level of residential amenity for future occupants of the proposed dwelling and would therefore, be contrary to the provisions of Sustainable Urban Housing, the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

2. Having regard to the substandard, restricted and the narrow width of the existing laneway, the applicant has failed to demonstrate that the mews building could be safely and conveniently accessed for essential and emergency services. The development would be contrary to Section 16.10.10 of the 2016-2022 Dublin City Development Plan and would endanger public safety by reason of traffic hazard. As such, the development would therefore be contrary to the proper planning and sustainable development of the area, and would set an undesirable precedent for similar developments in the area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer’s report is the basis of the Planning Authority’s decision.

- The dwelling could accommodate two double bedrooms and if so used the private open space amenity of 30m² is not acceptable.

- The 7.5m depth of the private space amenity along the full width to the rear has not been demonstrated.
- An acceptable rear private amenity space for the main dwelling has not been demonstrated. In addition, the quality of the private open space amenity area remaining for occupants of this dwelling is not deemed to be acceptable.
- Overlooking concerns would arise for properties in its vicinity.
- There is no unified approach for mews development of this laneway.
- The existing laneway has a width of 3.37m to 3.86m and therefore does not have the minimum required width under the Development Plan to accommodate mews development.
- Serious access concerns are raised due to the restricted width of the laneway and the ability of the lane to accommodate emergency services through to refuse collection.
- Proposed development has the potential to give rise to obstruction and safety issues for users of the lane.
- Concludes with a recommendation of refusal.

3.2.2. Other Technical Reports

Transportation: Concludes with a recommendation of refusal based on the substandard, restricted, and narrow width of the existing laneway together with the lack of demonstration that the mews building could be safely and conveniently accessed for essential and emergency services. It is also considered that the proposed development conflicts with Section 16.10.10 of the Dublin City Development Plan, 2016-2022.

Drainage: Further information requested. Of further note it indicates in the absence of the further information being sought that permission should be withheld until satisfactory drainage information has been submitted and approved by them.

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. During the course of the Planning Authority's determination 8 No. Third Party observations were received. These are attached to file. They can be summarised as follows:

- Adequacy of the documentation is questioned.
- Civil Matters.
- The proposed development would give rise to adverse residential amenity impacts.
- In the absence of unified plan for mews development on this lane the proposed development is premature. This proposal represents piecemeal development.
- Proposed development is not consistent with Development Plan criteria for mews and residential development.
- The quality of residential amenity for future occupants is questioned.
- This proposal, if permitted, would have an adverse impact on users of the lane.
- This proposal would depreciate the value of property in its vicinity.

4.0 Planning History

4.1. Site and Setting

4.1.1. No recent and/or relevant planning permission.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Dublin City Development Plan, 2022-2028, is the operative City Development Plan. The site is zoned '*Objective Z1*' which seeks '*to protect, provide and improve residential amenities*'.

5.1.2. Section 15.13.5 of the Development Plan deals specifically with mews type developments.

5.1.3. The site is located in Parking Area 2 of Map J of the Development Plan. This type of development requires the provision of one car parking space.

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.
- 5.2.2. The nearest European site is South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024) which is located c2.02km to the east.

5.3. EIA Screening

- 5.3.1. See completed Form 2 on file. 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 significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The First Party grounds of appeal can be summarised as follows:
 - Given the multiple ownership of properties along this lane it would be difficult to achieve a unified consensus.
 - There is precedent for this type of development in the city area.
 - It is unreasonable for the Planning Authority to pre-empt development that has not occurred yet and use this as an argument in terms of the adequacy of the private open space proposed in this development to serve future occupants.
 - The private amenity space that would remain for No. 17 St. Alphonsus Road Lower is consistent with required standards. These occupants also having the benefit of the front garden area.
 - There is only one property between the site and the junction with St. Joseph's Avenue. It is therefore ideally located and easily accessible for bin trucks and emergency service vehicles from St. Josephs' Avenue.
 - It is sought that the Board overturn the decision of the Planning Authority.

6.2. Planning Authority

6.2.1. None.

6.3. Observations

6.3.1. Five Third Party observations were received from local residents. Collectively each of the observations seek that the Board uphold the decision of the Planning Authority to refuse permission for the subject proposed development. The issues raised within these observations can be summarised as follows:

Site and Setting

- Historically there was no garage or shed to the rear of No. 17 St. Alphonsus Road Lower.
- No proof has been given to the contention that the six apartments referred to as being present at No. 17 St. Alphonsus Road Lower are pre-1963.
- The existing property at No. 17 St. Alphonsus Road Lower has been subject to significant extensions.
- The existing shed structure is single storey in its height, 3.55m addressing the lane and 3.7m addressing the main dwelling. It also fronts immediately onto the lane giving rise to limited impact on adjoining properties.
- The lane was not designed to accommodate mews dwellings and there are no mews dwellings present along it.

Visual Amenity

- The proposed mews does not respect the existing character of the area.
- The palette of materials proposed are hard to maintain in an urban context and are out of character with its setting.
- The design, scale, built form of the proposed mews dwelling would be visually overbearing, out of character and incongruous in its context.
- The setback of a 2-storey building would be visually incongruous with buildings to the rear of the adjoining and neighbouring St. Alphonsus terrace. These consist of single storey mainly modest structures.

- The siting, mass, height and built form of the proposed mews dwelling would result in an adverse precedent and would be at odds with the pattern of development that characterises this lane.
- The proposed mews fails to respect established building lines.

Procedural

- The submitted drawings are inadequate and contain inaccuracies.
- The site context is inaccurately depicted.
- The floor area of the mews dwelling when taken together with its internal garage is 114.8m² and not the 84m² area given.
- No. 19 St. Alphonsus Road Lower's garage/shed is incorrectly depicted as a much smaller structure than it actually is.

Planning Provisions

- Development Plan require mews development to be carried out in unified manner.
- Private open space amenity remaining for the main dwelling and the proposed mews dwelling does not meet Development Plan standards required.
- It is a requirement for mews developments to demonstrate good accessibility. This application fails to do so.
- Planning provisions do not advocate density at all costs approach but recommends balancing developments with their setting.
- The density fails to respect the existing character of the area.

Residential Amenities

- This proposal fails to active 22m between opposing first floor level windows and therefore compromises the amenity of other properties in its vicinity by reducing their privacy.
- This development would result in undue overshadowing of private amenity space.
- The remaining private open space for the main dwelling would be inadequate and of poor quality.
- The private open space amenity proposed for the mews is inadequate.

- This application seeks to change the private open space serving the 6 dwelling units on site to semi-private open space.
- Parking for the six dwelling units on site is presently served by the garage structure. There is no additional provision made for the car parking.
- There is concern that the first-floor level setback would be used as a terrace.
- The insertion of a new dwelling at this location would give rise to light and noise nuisance overspill. Also, negative residential amenities would arise during construction and demolition works.
- The current and past tenants of No. 17 St. Alphonsus Road do not use the front garden as amenity space.

Civil

- Any oversailing, encroachment through to interference with property and structures outside of the appellants full legal interest is objected to. This is the position of No.s 15 and 19 St. Alphonsus Road Lower. In relation to these properties, it is noted that walls of the existing shed structure project over No.s 15 and 19 St. Alphonsus Road Lower and the legal boundaries are not accurately depicted. It is further set out that the actual rear width of the site is 5.859m yet the submitted drawings show that the existing shed structure is between 6.002m and 6.0035m wide.
- There is ambiguity in the drawings in relation to defining the legal boundary of the site and that of No. 15 and 19 St. Alphonsus Road Lower.
- It is unclear how the proposed development can be implemented in the absence of consent of adjoining property owners.

Traffic/Car Parking

- This development would give rise to obstruction and road safety issues for existing users of the lane.
- The lane is unsuitable for *ad hoc* mews development given its various deficiencies in particular its restricted width.
- There are no plans to widen this lane nor any unified agreement by property owners along it to lose part of their property to facilitate its widening.

- Concerns are raised to the safety issues that would arise during demolition and construction of the development proposed.
- The existing garage should be retained as the primary parking space for this property.
- The site is only accessible from the lane and the junction onto St. Joseph's Avenue which is one-way and there are restricted sightlines.
- The lane itself is not wide enough to accommodate two-way traffic including at the junction with St. Joseph's Avenue.
- The auto-track analysis is based on a small car and despite this it shows that access is extremely tight, and access/egress would require blind movements onto the lane in vicinity of its junction. It takes account of no other vehicles being on the lane or at the junction nor does it demonstrate emergency, service vehicle movements or any type of larger vehicle.
- No account is taken of how the proposed development would function alongside the use of the lane by vehicles and vulnerable road users.

Other Matters Arising

- The proposed development would depreciate property values in its vicinity.
- The proposed development would result in an undesirable precedent for other similar developments.
- No consultation was had with properties in the vicinity.
- This development could consolidate the unauthorised development already present on this site. With this being described as 6 studio units.
- This proposal would result in the overdevelopment of the site, i.e., 7 dwelling units that would arise from this proposal, would place an unreasonable demand on services including parking in the area.
- Reference is made to an example of mews developments being refused on the basis of inadequacy of its laneway.

- Concern is raised in relation to waste storage requirements for the quantum of residential sought. There is no safe place for bin collection on the lane and the placement of bins on St. Josephs Avenue would cause obstruction.
- Should the Board be minded to grant permission a number of safeguards to protect residential and visual amenity are sought.

6.4. Further Responses

6.4.1. None.

7.0 Assessment

7.1. Overview

7.1.1. I consider that the issues arising in this appeal case can be assessed under the following broad headings:

- Procedural and Civil Matter Concerns
- Principal of the Proposed Development
- Compliance with Planning Provisions
- Other Matters Arising

7.1.2. The matter of '*Appropriate Assessment*' requires examination.

7.1.3. For clarity, the Dublin City Development Plan, 2022-2028, was adopted since the issuing of the Planning Authority's decision.

7.2. Procedural Concerns

7.2.1. Having examined the documentation accompanying the subject planning application and having regard to the matters raised by the several observers in this appeal, in relation to adequacy, inaccurate information and lack of consent to carry out the proposed development I consider that these concerns are with basis.

7.2.2. On these matters I raise particular issue with the adequacy of the drainage information provided to make any informed assessment and would concur with the Planning Authority's Drainage Division that the information in this regard is not satisfactory. I note to the Board that they recommended that permission be withheld until this matter

be satisfactorily address. The appeal documentation provided does not seek to overcome this concern.

7.2.3. Of note, Policy SI3 of the Development Plan requires all new development to provide separate foul and surface drainage systems. In addition, Section 15.4.3 of the Development Plan which deals with the matter of sustainability and climate action states that: “*good design has a key role to play in both reducing waste and emissions which contribute to climate change*”. It also sets out a number of key sustainable design principles including but not limited to:

- Developments should incorporate a Surface Water Management Plan in accordance with the requirements of Appendix 13 – the Council’s Surface Water Management Guidance – see policy SI25.
- New private spaces must incorporate proposals for Sustainable Drainage Systems (SuDS) in their design, where appropriate, in accordance with the Council’s Guidance Document for implementing SuDS Solutions (2021).

7.2.4. Furthermore, Volume 2 Appendix 5 of the Development Plan, requires residential developments to incorporate Sustainable Urban Drainage measures in their design in accordance with Policy SI22 of the Development. This policy requires proposals to indicate how the design aims to control surface water runoff in a sustainable fashion. The proposed development does not demonstrate compliance with these Development Plan requirements.

7.2.5. I also concur with the observers that the existing context of the site setting is not accurately depicted nor does the applicant provide reasonable clarity on whether or not they have full legal consent to carry out the demolition of the existing garage and the construction of the two-storey mews dwelling as proposed. Given the historical pattern of development of the subject terrace group that No. 17 St. Alphonsus Road Lower forms part of it would appear that the existing garage/shed structure for which demolition is sought oversails/encroaches onto the curtilage of No. 15 and No. 19 St. Alphonsus Road Lower. The occupants of these properties clearly set out that the legal boundaries as shown are contested and not accurate. They further also object to any oversailing, encroachment and/or interference, including removal or building of structures on boundaries which they have legal interest.

- 7.2.6. Further, setting aside the concerns raised in relation to the planning compliance of the residential development in terms of use and works, together with the lack of any planning history on the site, there is also a lack of needed clarity on No. 17 St. Alphonsus Road Lower. With, for example, this proposal seeking that it would be served by a semi-private open space amenity that, in my view, is not of satisfactory recreational and passive amenity value for occupants. This is on the basis of its lack of compliance with Development Plan criteria through to having regard to its northerly aspect, the limited depth and width to the rear elevation, the dimension of the space indicated and its relationship with other structures. A relationship that taken together with the other factors identified would result in amenity space that is significantly overshadowed throughout the year. As well as a more reduced space to accommodate other needs of the 6 studio units waste storage needs.
- 7.2.7. Moreover, the Development Plan under 15.13.5.1 sets out that in terms of private open space provision that: *“the amount of private open space remaining after the subdivision of the garden for a mews development shall meet both the private open space requirements for the main house divided into multiple dwellings and for mews development”*.
- 7.2.8. Further, Section 15.11.3 states the following: *“private open space for houses is usually provided by way of private gardens to the rear of a house. A minimum standard of 10 sq. m. of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. Generally, up to 60-70 sq. m. of rear garden area is considered sufficient for houses in the city. In relation to proposals for house(s) within the inner city, a standard of 5–8 sq. m. of private open space per bedspace will normally be applied”*.
- 7.2.9. Having regards to the above local planning provisions the Appellants contention that the front garden forms part of the private amenity space provision that would remain for the occupants of what they assert to be a single occupancy dwelling but would at time of inspection appeared to contain six no. studio units. Either way, what is described shown as open space amenity to the rear of the building line does not appear to accord with local planning provision criteria. It is notwithstanding, appropriate to know the exact residential use of the building, including if a material change of use has occurred as is suggested by the Appellant.

7.2.10. Taking the above into consideration while I note that matters raised in relation to ownership and legal consents are considered to be civil matters outside the remit of this planning appeal. I am not satisfied, based on this information, that the applicant has demonstrated sufficient legal interest to make this application in the absence of consent of No.s 15 and No. 19 St. Alphonsus Road Lower owners. Whilst the caveat provided for in Section 34(13) of the Planning and Development Act 2000, as amended, could be imposed by the Board as a precaution. With this stipulating that a person shall not be entitled solely by reason of a planning permission to carry out any development could be imposed as part of any grant of permission. This in itself is not one that would address the other matters of concern raised above. The issues arising from unauthorised development/enforcement are a matter for the Planning Authority, and therefore outside the remit of this planning appeal.

7.3. **Principal of the Proposed Development Plan**

7.3.1. By way of the subject planning application, planning permission is sought for the demolition of an existing garage, the construction of a mews dwelling and all accompanying works as well as services.

7.3.2. No. 17 St. Alphonsus Road Lower originally was a single use terrace period 2-storey dwelling with its principal period façade addressing St. Alphonsus Road Lower. This property has been subject to alterations which include its subdivision at some point in time to 6 studio units (Note: the planning application form indicates that this occurred pre-1963); the potential change of use from 6 studio units to a single use dwelling through to the construction of rear extension and garage structure. The site extends from its main rear elevation c22m to where it terminates at a cul-de-sac lane. At this point it contains the aforementioned single storey garage structure. The said lane is characterised by similar structures and provides secondary access for the adjoining and neighbouring properties of the terrace group it forms part of. It contains no mews development.

7.3.3. The site is situated on a larger parcel of land that is by and large characterised by residential development. This is reflected in its land use zoning under the Development Plan as '*Sustainable Residential Neighbourhoods - Z1*'. The stated objective for such land is: "*to protect, provide and improve residential amenities*". Residential development is deemed to be permissible subject to safeguards.

- 7.3.4. In addition, I note that Objective 3b of the National Planning Framework, seeks to deliver 50% of all new homes targeted in the 5 main cities and suburbs within their existing built-up footprints.
- 7.3.5. Moreover, Section 15.13.5 of the Development Plan which deals with the matter of mews development sets out that the Council are generally favourable towards such developments subject to compliance with normal planning criteria. Alongside the Development Plan positively supports the efficient and compact use of land in the city including vacant and underutilised lands also subject to compliance with normal planning criteria. There is also capacity in the public water and foul drainage to accommodate the demands this quantum of development would generate.
- 7.3.6. Based on the above I consider the general principle of the proposed development, that is to say the construction of a dwelling unit, in terms of the proper planning and sustainable development, to be acceptable, subject to safeguards.

7.4. Compliance with Planning Provisions

- 7.4.1. Firstly, the proposed development complies with the standards set out under Table 5.1 of the '*Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities*', (2007), which identify a target gross floor area of 70m² for a 2-bedroom/3-person, 2-storey dwelling. The proposed development which has a given floor area of 84m² exceeds this standard.
- 7.4.2. Notwithstanding this, I raise concerns given the type of development that is sought together with the restricted width of the lane upon which access to the proposed dwelling would be dependent upon that the Development Plan criteria for mews dwellings are not demonstrated. Particularly in terms of design and layout which the Council under Section 15.13.5.1 of the said plan encourage schemes which provide a unified approach to the development of residential mews lanes and where consensus between all property owners has been agreed.
- 7.4.3. This Section of the Development Plan states that: "*this unified approach framework is the preferred alternative to individual development proposals*". Though it also indicates that the individual proposals will also be considered and assessed on a case-by-case basis the lack of a unified approach in this case as a substantive issue considering the restricted width of the lane, the site's location relative to the lane and St. Josephs Avenue and being that the lane does not have any precedent for mews development.

- 7.4.4. In relation to this concern, it is of relevance that the Development Plan requires under Section 15.13.5.4 that: *“potential mews laneways must provide adequate accessibility in terms of private vehicular movements, emergency vehicles and refuse vehicles”*. Further Volume 2 Appendix 5 Section 4.3.8 of the Development Plan also highlights this stating that such laneways have a: *“minimum carriageway of 4.8m in width (5.5m where no verges or footpaths are provided) is required. In circumstances where these widths cannot be provided, safe access and egress for all vehicles and pedestrians must be demonstrated”*. The documentation provided with this application does not demonstrate this and given that the laneway width upon which access and egress for the proposed dwelling to the public road network to the immediate west is 3.43m and with the mews subdivision proposed setback at its nearest point just over 5m from the laneway’s junction with St. Josephs Avenue this is a significant concern. In common with vehicles movements generated by the proposed development these would be impaired by the lack of adequate sightlines.
- 7.4.5. Further, the setback area of the mews dwelling is such that access and egress from the car parking space would as a result of the lack of on-site turning space require additional movements on the lane. These given the proximity to the junction and the width of the laneway to the west of this junction has the potential to give rise to serious road safety issues and hazards for other road users. The width of the laneway to the west is also not sufficient for emergency and service vehicles. Alongside storage of waste bins on St. Josephs Avenue would give rise to obstruction for users of this public domain, in particular vulnerable road users, and would also have the potential to give rise to other nuisances such as odours and the like.
- 7.4.6. Moreover, the laneway to the east is c3.37m at its nearest point and given the positioning of an existing single storey structure to the immediate east with zero setback from the lane users of the lane, the proposed mews development would give rise to additional hazard of the vehicle movements generated at a point where views are inadequate. On this point it is also notable that vehicle movements such as electric cars are much quieter than fossil fuel vehicles. So this gives further concern in terms of safety for other lane users.
- 7.4.7. In terms of the documentation provided with this application it is a concern that the auto-track analysis shows that vehicles egressing from the lane can do so in two directions. This is not the case. St. Josephs is a one-way road with traffic movement

in a southerly direction, i.e., towards St. Alphonsus Road Lower. It is also a public carriageway that is restricted in its width, a width that incidentally is less than the 4.8m set out under Volume 2 Appendix 5 Section 4.3.8 of the Development Plan. With its width restricted by the presence of a footpath on its western side and with double yellow lines on both sides of the single carriage in the immediate vicinity of the junction with the subject laneway. It is also a concern that the auto-track analysis uses a restricted in length vehicle (Note: 4.223m) and that the drawing setting out this auto-track analysis fails to show the presence of a light standard at the southern corner of the subject laneway's junction with St. Josephs Avenue. Of further concern the concrete surface of the laneway itself is in a poor state of repair. Water ponding also appears to be an issue due to lack of any surface water drainage and the lack of porosity of surface materials used on this lane.

- 7.4.8. Taking the above into consideration I consider that the Planning Authority's second reason for refusal is with basis given that the laneway upon which the proposed dwelling would be accessed and egressed from is substandard in its nature. Particularly in terms of its restricted width and alongside the lack of demonstration that the proposed dwelling could be accessed and serviced by emergency and service vehicles. Moreover, if permitted, it would be contrary to the Planning Authority criteria for mews lane's and would endanger existing users of the laneway by way of traffic hazard and obstruction.
- 7.4.9. In addition, to these concerns and as previously raised as a concern Section 15.13.5.1 of the Development Plan states that: "*private open space shall be provided to the rear of the mews building to provide for adequate amenity space for both the original and proposed dwelling and shall be landscaped so as to provide for a quality residential environment*"; and, "*if the main house is in multiple occupancy, the amount of private open space remaining after the subdivision of the garden for a mews development shall meet both the private open space requirements for the main house divided into multiple dwellings and for mews development*".
- 7.4.10. As previously mentioned in this assessment the information provided to assess compliance with this criterion has not been provided.
- 7.4.11. Further, to the concerns previously raised on the matter of private open space is that Section 15.11.3 of the Development Plan sets out: "*a minimum standard of 10 sq. m.*

of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. Generally, up to 60-70 sq. m. of rear garden area is considered sufficient for houses in the city”.

- 7.4.12. The private open space provision for the occupants of the proposed mews dwelling is given as 30m². With this provision contended to be sufficient and based on the 3 bedspaces indicated. The internal floor layout of the first-floor level indicates that Bedroom 1 would be 15.3m² and Bedroom 2 would be 11.2m². With Bedroom 1 having given dimensions of 2.9m by 5.3m and Bedroom 2 having given dimensions of 2.8m by 4m. Thus, both Bedroom 1 and 2 floor areas are of the size that they each could accommodate two bedspaces should future occupants of the proposed dwelling decide to.
- 7.4.13. Section 5.3.2 of the ‘Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities’, (2007), sets out that bedrooms should be well proportioned so as to provide a good quality living environment for the occupants.
- 7.4.14. It sets out that a single bedroom should be at least 7.1m² and a double bedroom 11.4m². It also requires dwellings with three or more persons to have a main bedroom of at least 13m².
- 7.4.15. Having regards to the submitted drawings Bedroom 2 contains two rooms that are labelled as ‘store’. These have given areas of 2.2m² and 2.8m². Both rooms are only accessible from this room and accessed via a standard sized door.
- 7.4.16. Given these facts I consider the Planning Authority were reasonable to conclude that Bedroom 2 could function as a two-bedspace bedroom and that regard for this should be had given the limited quantum of private open space on a site that is not an inner-city site. The concern over the qualitative standard of private open space proposed is further added to by the significant setback of the proposed mews dwelling into what is the private amenity space of No. 17 St. Alphonsus Road Lower. With both the lane-side elevation and rear elevation of the mews lane not corresponding with any established rear building line of No. 17’s subject terrace group. Alongside the restricted in depth rear private amenity space would be overlooked by first floor rear extensions as would the first-floor level of the proposed mews give rise to a change in

context for adjoining and neighbouring properties also by way of undue overlooking. This is as a result of its significant setback in a southerly direction into the historic rectangular shaped rear garden area, a rear garden area that is by and large of similar in width and depth. Due to these adjoining and neighbouring terrace properties in their present context having no direct overlooking arising from first floor windows less than 22m from their first-floor windows to the north of them.

- 7.4.17. On this point I note that Section 15.11.4 of the Development Plan sets out that there should be adequate separation between opposing windows and that the traditional 22m sought can be relaxed if it is demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers. No mitigation measures have been provided to achieve this.
- 7.4.18. Of further concern on this matter is that the positioning of the mews relative to the private open space of adjoining properties is such that its height and depth would give rise to overshadowing of their private amenity space. It is unclear from the lack of scientifically based assessment of this matter the extent of this impact in terms of properties in the vicinity of the proposed mews dwelling.
- 7.4.19. It is also a requirement that the height, scale and massing of new mews buildings to complement the character of both the mews lane and the main building (Note: Section 15.13.5.2 of the Development Plan). Section 15.13.5.2 of the Development Plan also seeks that these are subordinate in their height and scale.
- 7.4.20. I raise a concern that the proposed design is highly angular in its built form and that there is a lack of any overall architectural design quality in terms of the visual outcome if it were permitted when viewed as part of the public domain of the laneway and as viewed from the private domain of adjoining and neighbouring properties to the east and west. While I accept that design and architectural resolution can be subjective the overall solid to void, palette of materials, finishes and treatments is neither reflective of traditional mews dwellings or contemporary qualitative mews dwelling developments. This is reinforced in my view and the blank east and western elevation treatments and the lack of any qualitative overall external treatment and finish for the mews dwelling in the round. Further the design resolution and palette of external materials takes little inspiration from its setting. A setting which has a rich architectural character.

7.4.21. Section 15.13.5.1 of the Development Plan sets out that the materials proposed should respect the existing character of the area and utilise a similar colour palette to that of the main structure. In addition, Section 15.13.5.2 of the Development Plan sets out that mews buildings should complement the character of both the mews lane and main building including through use of materials. It is also an overarching policy of the Development Plan “*to promote residential development at sustainable densities throughout the city*”... “*having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area*” (Note: Policy QHSN10). The proposed development does not align with this and if permitted when taken together with other concerns, including the lack of a unified approach for the development of the laneway as a mews lane, to permit the proposed development as proposed would give rise to an undesirable precedent for any such future development.

7.4.22. Conclusion

In conclusion, I consider that to permit the proposed development as proposed would be contrary the land use zoning objective for this area, which seeks “*to protect, provide and improve residential amenities*”.

In this regard, the proposed development fails to provide qualitative future residential amenity for future occupants of the proposed mews, it would negatively diminish established residential amenities of properties in its vicinity by way of overlooking, overshadowing and visual incongruity.

It would also give rise to an *ad hoc* piecemeal development based on the lack of a unified approach to create a sustainable qualitative approach for mews development at this location.

Moreover, if permitted it would give rise to additional traffic hazard and safety issues for users of the lane and St. Josephs Avenue.

Overall, if permitted, it would give rise to a poor starting point upon which to base any mews development along this lane and a type of residential development that lacks appropriate respect and harmony with its residential and visual context. For these reasons the proposed development is inconsistent with the proper planning and sustainable development of the area as provided for under the Development Plan for this type of development.

7.5. Other Matters Arising

7.5.1. Depreciation of Property Values

The observers in this appeal case raise concern that the proposed development if permitted as a result of residential, visual, and other adverse impacts that they contend would arise would result in the diminishment of the value of their property. They have not provided an expert examination of this. In the absence of an expert examination of this matter I can not make an informed assessment on whether or not any significant depreciation of property value would arise.

7.5.2. Nuisances

The observers in this appeal case raise a number of nuisance concerns in relation to the proposed development, if it were permitted. These concerns relate to the demolition, construction, and operational phases of the proposed development. The nuisances include noise, dust through to vibrations. In relation to the demolition and construction phases this application is not accompanied by any management plan that seeks to deal with the various potential and likely nuisances to residential amenities as well as upon the public domain during these phases. Should the Board be minded to grant permission there are standard conditions normally imposed as a precaution to safeguard residential amenities in such site contexts. These range from the submission for agreement of a demolition and construction management plan that would deal with associated noise, mitigation measures to capture dust, appropriate traffic management measures, storage through to measures to deal with waste removal. There are also conditions that deal with limiting hours in which associated works can take place, limiting noise levels through to dealing with any damage to the public domain and the responsibility for its repair. It is standard practice that these types of conditions are normally imposed to developments permitted in this type of site context. In terms of nuisances when operational while it is accepted that the proposed development would give rise to a significant change of context in terms of the pattern of development that characterises the subject terrace group No. 17 St. Alphonsus Road Lower forms part of, it is my view that the substantive residential amenity diminishment that would arise would be from overlooking, overshadowing through to visual overbearing/incongruity. Normal noises arising from residential use of the mews dwelling in this context are not grounds in themselves to refuse permission given that

this residential area and serviced urban land where densification at appropriate locations such as residentially zoned land are supported subject to safeguards.

7.5.3. **Section 48**

For clarity, should the Board be minded to grant permission for the proposed development sought under this application Section 48 development contributions are applicable under the Dublin City Council Development Contribution Scheme, 2023-2026. Therefore, an appropriate condition should be imposed.

8.0 **Appropriate Assessment Screening**

- 8.1. Having regard to the modest nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, 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.

9.0 **Recommendation**

- 9.1. I recommend that planning permission for the proposed development be **refused** for the following reasons and considerations:

10.0 **Reasons and Considerations**

1. Having regard to the pattern of development in the area, the design, height and placement of the proposed development and its proximity to adjoining residential properties, and in the absence of any robust analysis to demonstrate the extent of shadow impact, it is considered that the Board cannot be satisfied that the proposed development would not unduly impact on the amenities of adjoining residential property as well as that the remaining private amenity space serving No. 17 St. Alphonsus Road Lower by way of overlooking, overshadowing and visual overbearance.

The proposed development would therefore seriously injure residential amenities in a manner that would be contrary to the site and its setting 'Sustainable Residential Neighbourhoods – Z1' land use zoning objective of protecting,

providing, and improving residential amenities as provided for under the Dublin City Development Plan, 2022-2028.

It is therefore considered that the proposed development would accordingly be contrary to the proper planning and sustainable development of the area.

2. Having regard to the substandard, restricted and the narrow width of the existing laneway, the applicant has failed to demonstrate that the mews building could be safely and conveniently accessed for essential and emergency services. Further, the laneway is considered to be seriously deficient in width along its length and lacks sufficient capacity to safely accommodate the vehicle and pedestrian movements which the proposed development will generate. The proposed development would therefore be contrary to Section 4.3.8 Appendix 5 Volume 2 of the Dublin City Development Plan, 2022-2028, and would endanger public safety by reason of traffic hazard.

In addition, Section 15.13.5.1 of the Dublin City Development Plan, 2022-2028, encourages a unified approach for mews lane development. In the absence of any comprehensive and unified approach, particularly in terms of the upgrade of this lane and its junction onto St. Josephs Avenue, it is considered that the proposal would constitute an ad hoc piecemeal uncoordinated development which would endanger public safety by reason of traffic hazard.

The proposed development would therefore be contrary to the proper planning and sustainable development of the area and would set an undesirable precedent for similar developments in the area.

3. It is considered that the proposed development by reason of its design, its two-storey built form, its proximity to other properties and the in-adequate depth of rear garden space for the mews dwelling and No. 17 St. Alphonsus Road Lower, both with seriously inadequate quantitative and qualitative provisions of private open space amenity for occupants, would be an inappropriate form of development at this location and would represent significant overdevelopment of this constrained site. The proposed development would, therefore, seriously injure the amenities

of the area and would 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.

Patricia-Marie Young
Planning Inspector

17th day of July, 2023.