



An
Bord
Pleanála

Inspector's Report

ABP-317383-23

Development	Construction of 2 no. dwellings
Location	Lands situated to the immediate south-east of No. 1 Tritonville Crescent, the rear of No. 29 Sandymount Road and to the immediate north-west of Nos. 5-6 Tritonville Court, on Tritonville Lane, Sandymount, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3028/23
Applicant(s)	Orbitz Ltd.
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party Appeal
Appellant(s)	Orbitz Ltd.
Observer(s)	Rodney & Elenor Devitt Kenan & Sinead Furlong

John & Anne Larkin
James & Emer McCann
Mary Hegarty
Eileen O'Connor
Tara Byrne
Philip & Pauline O'Flynn
Alan Gallagher & Rosannagh Murphy
Jamie & Sheena Heaslip

Date of Site Inspection

24th November 2023

Inspector

Frank O'Donnell

1.0 Site Location and Description

- 1.1. The appeal site is located on the eastern side of Tritonville Lane and forms part of the rear garden of No. 29 Sandymount Road, Dublin 4. The site has a stated area of 0.058 hectares (580 sqm), is served by an existing vehicular access onto Tritonville Lane, has a general rectangular shape and is relatively flat. The site is bounded to the north-west by an existing 2 storey detached dwelling and associated rear garden space (no. 1 Tritonville Crescent), to the south-east by 3 no. semi-detached two storey dwellings (no's 5, 6 & 7 Tritonville Court) and to the north-east in part by a mews lane to the rear of properties facing Sandymount Road, with the remainder forming the rear garden of no. 27 Sandymount Road.
- 1.2. Tritonville Lane is a narrow Cul de Sac mews lane which is accessed from Tritonville Crescent to the north-west. A total of 4 no. mews dwellings have been developed to the rear of the houses fronting onto Tritonville Road to the east. Each of the said dwellings have an individual vehicular access directly onto Tritonville Lane, comprise of narrow plots, are of varying setback distances and present A Gable frontages onto the lane. The laneway also functions as a pedestrian shortcut connecting the area with the wider locality and originally served as a means of access to former tennis courts further to the south which now forms Tritonville Court.

2.0 Proposed Development

- 2.1. Permission sought on 28th April 2023, for development comprising the following principal elements:
 - Removal of existing boundary treatment along the western site boundary to Tritonville.
 - Construction of 2 no. semi-detached dwellings, each served by private amenity space to side/rear. The dwellings have an overall height of 6.4 metres. Unit no. 1 has a stated total floor area of 206 sqm and Unit no. 2 has a stated floor area of 205 sqm.
 - Provision of bin store and vehicular parking area to the front of each dwelling and directly accessible via Tritonville Lane. Each unit is proposed to have 2 no. car parking spaces.

- All ancillary works, inclusive of boundary treatments, landscaping and drainage works, necessary to facilitate the development.

2.2. The application was accompanied by the following documents:

- Planning Report;
- Drainage Design Report;
- Site Specific Flood Risk Assessment;
- Daylight Analysis and Overshadowing Report;
- Photomontage & Camera GPS Survey.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. On 24/05/2023 the Planning Authority issued a decision to REFUSE permission for the following reason:

- ‘1. The proposed development by way of its separation distance from adjoining boundaries, its design, fenestration pattern and proposed materials would have a seriously negative impact on the residential amenity of the adjoining residential conservation area and its neighbouring properties and would therefore be contrary the Dublin City Development Plan 2022-2028, zoning objective for the area and section 15.5.2 which refers to infill housing. The proposal, due to its lack of separation between the new units and the neighbouring properties would be overbearing and would seriously injure the residential amenity of property in the vicinity. The proposed fenestration design at first floor level to the rear of the new units would result in poor levels of residential amenity for the future occupants of the units, as due to their size they would result in low levels of privacy. The proposed development is therefore contrary to the proper planning and sustainable development of the area and would set a poor precedent for future such development.’*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Planning Officer's** Report dated 26/05/2023 notes the previous approval on the subject site for 2 no. houses, as planning reg. ref. no. 2901/16 refers, which has now expired and further notes that the current proposal is a departure from same. The concerns raised in relation to design, fenestration patterns, separation distances and the impacts the proposed development would have on adjoining properties are noted.
- The Planner considered that the Applicant failed to adequately address the concerns raised and that while some of the issues could be addressed by way of condition, the overall siting of the structures and the site plan is not something which it was considered could be addressed by way of condition.
- Due to inadequate separation distances provided between the properties and adjoining properties and the unacceptable negative impact this, coupled with the proposed design, materials and fenestration, would have on the residential amenities of the adjoining properties, the Planner recommended that permission be refused.

3.2.2. Other Technical Reports

- The **Drainage Department**, as per the Report dated 16/05/2023, raise no objection to the proposed development subject to standard type conditions. The Report references the flood resistance and resilience measures detailed in the Site-Specific Flood Risk Assessment and states that these shall be implemented in full.
- The **Environmental Health Department** raise no objection to the proposed development subject to 1 no. standard condition relating to Noise Control and Air Quality Control during the demolition and construction phase.
- The **Roads Streets & Traffic Department Road Planning Division** raise no objection to the proposed development subject to 4 no. standard type conditions.

3.3. **Third Party Observations**

3.4. Dublin City Council received a total of 10 no. submissions from local residents objecting to the proposed development. The issues raised in the said submissions can be broadly summarised under the following main headings:

Design/ Layout/ Character of the Area

- The proposed development would comprise of overdevelopment of a restricted site.
- The design is at odds with the established character of the area. The proposed scale, bulk and monolithic appearance, particularly at first floor level. The proposed materials and roof profile are not in keeping with the area. The proposal appears commercial in nature and will dominate the area.
- The proposal would have an overbearing impact.
- There are insufficient separation distances observed.
- The proposal will result in a negative visual impact.
- The proposal will result in overlooking and loss of privacy.
- The proposal will result in overshadowing and loss of light.
- The proposal is of excessive density.

Traffic Congestion

- The existing laneway is narrow. The proposal appears to further narrow the laneway.
- The narrow laneway and resultant traffic movements will impede access for emergency vehicles. There is existing car parking on one side of the laneway. There are anticipated Construction Traffic Impacts. The proposals will impact upon Pedestrian Safety. The proposals will impact upon Child Safety. The laneway is private. The Applicant does not have consent to provide services in the Laneway.

Other Matters

- The proposals will result in the loss of mature trees and will have an impact on the Environment.
- There has been a lack of consultation with surrounding neighbours.
- The drawings are inaccurate and do not include extensions to adjoining properties.
- The proximity of the proposed residences to the existing laneway presents security concerns for future residents.
- The Planning Application is invalid due to location of site notices.
- The proposal will result in additional noise impacts.

4.0 Planning History

4.1.1. Planning History on the subject site

- **5278/22:** INCOMPLETE APPLICATION.
- **0379/22:** Section 97 Social Housing Exemption Certificate. GRANTED on 09/12/2022.
- **2901/16/X1:** Extension of Duration (EOD). EOD was REFUSED on 26/11/2021 as substantial works had not been undertaken.
- **2901/16 (Appeal Ref. No. PL29S.247316):** Permission to construct 2 semi-detached 2 storey mews dwellings, relocate 1 vehicular entrance and create another entrance. Permission was GRANTED on 08/02/2017 (11 no. conditions).

4.1.2. Planning History on the adjacent site to the north-west (No. 1 Tritonville Crescent)

- **3825/20:** Permission to demolish single storey front, side & rear extensions and to construct 2-storey side & rear extensions & single storey rear extension. Permission was GRANTED on 11 Mar 2021 (12 no. conditions).

4.1.3. Planning History on the adjacent site to the north-east (No. 29 Sandymount Road)

- **5817/06:** Permission for the construction of a new floor to accommodate bedrooms over the existing two storey side structure, including new bay window to front and new balcony to rear at first floor level. Permission was GRANTED on 02 Feb 2007 (6 no. conditions).

4.1.4. Planning History on the adjacent site to the south-east (No. 7 Tritonville Court)

- **2265/14:** Permission for a new part single storey/ part two storey flat roof extension to the rear of the existing house. Permission was GRANTED on 20/05/2014 (6 no. conditions).

4.1.5. Planning History on the adjacent site to the north-east (No. 39 Sandymount Road)

- **WEB1241/23:** Permission for demolition of the existing two-storey return and extension to the rear and side and the construction of a new two-storey extension to the rear and side (232sqm). Permission was GRANTED on 23rd June 2023 (6 no. conditions).

5.0 Policy Context

5.1. Local Planning Policy

Dublin City Development Plan, 2022 to 2028

- 5.1.1. The current Dublin City Development Plan, 2022 to 2028, came into effect on 14th December 2022. The decision of the Local Authority, issued on 24th May 2023, was made under the current Development Plan.
- 5.1.2. The Appeal site is zoned Z1 - Sustainable Residential Neighbourhoods in the Dublin City Council Development Plan, 2022 to 2028. The relevant zoning objective is: 'To protect, provide and improve residential amenities'. Residential is a use which is Permitted in Principle on lands zoned Z1 - Sustainable Residential Neighbourhoods.
- 5.1.3. Chapter 4 relates to the Shape and Structure of the City. This Chapter sets of the overarching framework and strategy to guide the future sustainable development of the city. High Quality 'placemaking' will be required to ensure a compact city where people want to live and work. Relevant Policies from this Chapter include the following:

- SC8: Development of the Inner Suburbs, SC10: Urban Density, SC11: Compact Growth, SC12: Housing Mix, SC13: Green Infrastructure, SC19: High Quality Architecture, SC20: Urban Design & SC21: Architectural Design

5.1.4. Chapter 5 relates to Quality Housing and Sustainable Neighbourhoods. Relevant Policies and Objectives from this Chapter include the following:

Policies:

- QHSN2: National Guidelines, QHSN6: Urban Consolidation, QHSN9: Active Land Management, QHSN10: Urban Density, QHSN11: 15-Minute City, QHSN12: Neighbourhood Development, QHSN14: High Quality Living Environment, QHSN16: Accessible Built Environment, QHSN17: Sustainable Neighbourhoods, QHSN18: Needs of Ageing Population, QHSN22: Adaptable and Flexible Housing, QHSN23: Independent Living, QHSN24: Reconfiguration of Family Homes, QHSN35: Diversity of Housing Type and Tenure, QHNS37: Houses and Apartments, BHA11: Rehabilitation and Reuse of Existing Older Buildings,

- BHA14: Mews

To promote the redevelopment and regeneration of mews lanes, including those in the north and south Georgian core, for sensitively designed, appropriately scaled, infill residential development, that restores historic fabric where possible, and that removes inappropriate backland car parking areas.

- BHA15: Twentieth Century Buildings and Structures.

Objectives:

- QHSNO4: Densification of the Suburbs, QHSNO10: Intergenerational Models of Housing, QHSNO11: Universal Design & BHAO5: Mews.

5.1.5. Chapter 14 of the Plan relates to Land Use Zoning.

5.1.6. Chapter 15 relates to Development Standards. Relevant Sections include the following:

- Section 15.4: Key Design Principles

- Section 15.4.1: Healthy Placemaking, Section 15.4.2: Architectural Design Quality, Section 15.4.3: Sustainability and Climate Action, Section 15.4.4: Inclusivity & Accessibility, Section 15.4.5: Safe and Secure Design
- Section 15.5: Site Characteristics and Design Parameters
- Section 15.5.2: Infill Development, Section 15.5.5: Density, Section 15.5.6: Plot Ratio and Site Coverage, Section 15.5.7: Materials and Finishes
- Section 15.6: Green Infrastructure and Landscaping
- Section 15.7: Climate Action
- Section 15.8: Residential Development
- Section 15.11: House Developments
- Section 15.11.1: Floor Areas, Section 15.11.2: Aspect, Daylight / Sunlight and Ventilation, Section 15.11.3: Private Open Space, Section 15.11.4: Separation Distances (Houses) Floor Areas
- Section 15.13 - Other Residential Typologies
- Section 15.13.3: Infill /Side Garden Housing Developments, Section 15.13.4: Backland Housing, Section 15.13.5: Mews
 - *Appendix 3 - Achieving Sustainable Compact Growth Policy for Density and Building Height in the City, Appendix 4 - Development Plan Mandatory Requirements, Appendix 5: Transport and Mobility: Technical Requirements, Appendix 7 - Guidelines for Waste Storage Facilities, Appendix 12 - Technical Summary of Dublin City Council Sustainable Drainage Design & Evaluation Guide (2021), Appendix 13 - Surface Water Management Guidance, Appendix 14 - Statement Demonstrating Compliance with Section 28 Guidelines, Appendix 16 - Sunlight and Daylight.*

5.1.7. Guidelines

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2023
- Design Manual for Urban Streets and Roads, 2019
- Urban Development and Building Heights – Guidelines for Planning Authorities, 2018
- Urban Design Manual - A Best Practice Guide, 2009
- Flood Risk Management Guidelines, 2009

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.

5.3. **EIA Screening**

- 5.3.1. Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from the nearest sensitive location, 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.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The Applicant has appealed the decision of Dublin City Council to Refuse permission for the proposed development. The following is a summary of the main Grounds of Appeal:

- Design, Scale and Finishing Materials
 - The design, scale and finishing materials of the proposed development are appropriate in the context of providing a high standard of amenity for future occupants whilst protecting the existing residential amenity of neighbouring properties and the visual amenity of the immediate area.
 - Several precedents have been identified which provide a comparable extent of development as is currently proposed.
 - Overlooking of neighbouring private amenity spaces to the rear.
 - This would be restricted by the proposed 20 metre separation distance. The previous planning permission, reg. ref. no. 2901/16, is more impactful to adjoining residential amenities.
 - A revised rear elevation at first floor level is presented. The Applicant seeks that the Board has due regard to the alternative design but to only apply such changes where it is deemed to be necessary.
 - Residential Amenity
 - The impact on established residential amenity arising due to the fenestration detail to the front is disputed. The siting of the existing properties raises the privacy issues in the first place.
 - The purpose of the window design to the front is to prevent overlooking towards neighbouring properties, to protect neighbouring residential amenity not the future residents of the proposed dwellings and to justify the siting of the properties closer to the front boundary of the site.

- No negative impact on future residents as daylight will still be able to penetrate these windows. The windows don't serve habitable rooms and can be easily cleaned.
 - The Applicant considers the said previous permission to comprise of 2 no. atypical residential dwellings of no significant architectural merit which provided for the extremely inefficient use of the site with an inappropriate pastiche design.
 - The subject proposal is in direct contrast, is of a unique and site-specific architectural design, will add visual interest and represents an efficient use of the site and ensures the adequate protection of existing residential amenities.
 - The Board is referred to Figures 11 & 12 which show sections of the proposed development compared to those permitted under planning reg. ref. no. 2901/16.
- Separation distances/ visual impact
- No regard has been given in the assessment to the reduced depth and height relative to the approved development.
 - The Applicant accepts that there is a definite increase in visual massing along Tritonville Lane, which they consider to be appropriate. The Case Officer is solely focused on the visual impact experienced by the properties to the immediate north and south of the site.
 - The Applicant considers that the proposed development does not present an unreasonable extent/form of development. The Applicant accepts that the proposal will present a visual impact to the adjoining properties, but this is not considered significant enough to result in any undue impact to adjoining residential amenities and cannot result in any overshadowing which would be material to the useability/ amenity value of private amenity spaces associated with adjoining properties.

- The Applicant references 2 no. historical applications elsewhere in the city which they consider to be of relevance in the context of the current proposal.
- In the first case, the Applicant notes the permitted higher density of 3 no. units, the extent of development to the site's boundary, the proximity of existing residences and associated rear gardens and the setting of the site positioned to the rear of a row of Protected Structures. The subject site by comparison is adjoined by public laneways along its western and eastern boundaries with adjoining rear gardens to the north and south providing separation from dwellings to the north and south.
- The Applicant notes the greater separation distances from adjoining residential units to the north and west compared to the subject proposal but also notes the increased height and increased number of units in conjunction with the comparably reduced rear garden depth and the provision of roof garden areas which they consider would provide a further residential amenity impact in the form of noise.
- The primary focus of the initial Local Authority assessment was the impact on the protected structures and the streetscape of Lesson Park. The Applicant submits that the subject proposal will provide visual interest in the immediate vicinity of Tritonville Lane whilst presenting no impact on the existing residential amenities any greater than that created by virtue of the cited approved development.
- The Applicant refers to the assessment of the An Bord Pleanála Inspector under planning reg. ref. no. 4456/17 (Appeal Ref. No. 301724) and considers that a practical approach was adopted to considering the extent of impact on neighbouring residential amenities. Regard was had to existing vegetation in conjunction with the achieved separation distance. The Applicant requests that the Inspector reviewing the subject proposal to apply a similarly

practical approach to their assessment. The Applicant submits that the adjoining properties to the immediate north and south of the subject site will retain sufficient outlook and will not be unduly affected by the subject proposal.

- In the second case, the Applicant notes that 5 no. Dwellings were approved and built with a 1.4 metre separation distance from the site's north-western boundary.
 - The Applicant considers that the Planning Officer in the assessment of this second case also adopted a practical approach which, they consider, has not been shown in the case of the subject proposal. The Applicant further considers the subject proposal exceeds all internal/ external area standards and provides a more useable east-facing amenity space with appropriate outlook.
 - In the second case a 12-metre separation distance between the proposed three-storey dwellings and the rear extent of an adjoining two-storey property was considered to be appropriate to maintain residential amenity. The Applicant considers this to be in direct contrast to the subject proposal, where a separation distance of c. 15 metres between the proposed two-storey dwellings and the rear extent of adjoining two-storey property, is considered by the Case Officer to be insufficient. The Applicant considers this precedent case provides a direct rationale for the approval of the subject property and they appeal to the Board to provide a considered assessment of the subject proposal.
- Efficient use of Serviced Land
 - The Applicant considers the subject proposal to be in accordance with the following:
 - Project Ireland 2040 National Planning Framework
 - Building Height Guidelines (2018) and, in particular, Section 3.2 (Development Management Criteria)

6.2. Applicant Response

- N/A

6.3. Planning Authority Response

- Response dated 22nd June 2023 received on 27th June 2023. The Response states *'the observations of the Dublin Planning Officer on the grounds of appeal have been sought and these will be forwarded to you as quickly as possible.'*

6.4. Observations

6.4.1. A total of 11 no. observations were received from the following:

- Rodney & Elenor Devitt, Kenan & Sinead Furlong, Eileen O'Connor, Mary Hegarty, John & Anne Larkin, James & Emer McCann, Tara Byrne & other, Philip & Pauline O'Flynn, Alan Gallagher & Rosannagh Murphy, Jamie & Sheena Heaslip, Ian & Sharon Donnelly.

6.4.2. The issues raised by the observers can be broadly summarised under the following main headings:

- Design, Layout and Character of the Area
 - The development is not only out of architectural character and out of sync with Tritonville Lane, a Residential Conservation area, but with the whole area. The site is not an infill site or a brownfield site. It is a greenfield site with 40-year-old (plus) specimen trees. The design is completely out of keeping with the existing detached, set back, mews houses.
 - The development presents a solid monolithic block with top storey almost abutting directly onto the edge of the lane. The design, mass and scale are not appropriate. The roof line is commercial in appearance and does not appear to be in character with the lane nor the surrounding buildings.

- The previous proposals had low eaves height and hipped-ended roof profile. The proposals ignore the pre-planning advice that low eaves height and hip-ended roof profile of the previous dwellings should be noted. The current mews properties have taken a unified approach in terms of design and character.
- The proposal is visually intrusive for surrounding properties.
- The front windows are unsightly.
- The building line is inappropriate. There is no setback whatsoever. The previously permitted dwellings were all set back from the lane.
- The separation distances from adjoining properties are inadequate. The Local Authority note serious concerns northwest and southeast gables of the proposed dwellings abutting onto common boundaries would appear overbearing on adjoining properties. The developer's response is inadequate. There is ample scope to increase the separation distances without unduly impacting the standard of accommodation proposed.
- The amenity space proposed appears to be insufficient for the density of the development.
- Further development proposals along the lane, as referenced by the Applicant, are highly questionable given the restricted space and the lack of development land.
- Suggested design changes include i) the reorientation of the proposed floor plans by 180 degrees, ii) the reduction of the number and size of windows and/ or the provision of natural screening or the retention of the hedge to the rear, iii) the use of obscure glazing (the windows in the previous proposal were of much smaller scale), and iv) screening between first floor windows and the back of the development.
- Residential Amenity
 - The existing dwellings to the west of the lane are not overlooked nor overlook dwellings in front of them. The proposals will overlook the rear gardens of property to the north- east resulting in a loss of privacy and

associated residential amenity. The development will overlook existing house no's 1, 2, 3 & 4 to the west. Tritonville Court Park will be overlooked.

- The proposal would create an intolerable disruption for existing residents, represents a complete overdevelopment of this small lane, would have an unbearable impact and would utterly change the immediate environment.
- The proposal is overbearing and would completely injure the residential amenity of properties in the vicinity. The overbearing impact is worse under the current proposals to that of the previous proposals.
- The proposals will overshadow the properties to the west of the lane and the property to the north.
- The scale and excessive fenestration compromise the existing residential amenity.
- The proposals will adversely affect the observer's quality of life.
- Development Plan
 - DCC state that the Plan would be contrary to the Dublin City Development Plan 2022 – 2028 zoning objective for the area and section 15.5.2 which refers to infill housing.
 - DCC standards for infill sites require new developments to respect the existing character and have a degree of uniformity with adjacent structures. This proposal does not comply with these standards.
- Biodiversity and Environmental Impact
 - The proposed development will result in the loss of significant specimen trees and hedgerow. This will have a detrimental impact to the character of the lane, local biodiversity and will result in an overall environmental impact.
 - The proposal does not include any landscaping plan. It is unclear if the proposals include the retention of hedgerow. Where the Board is mindful to Grant permission, a condition to retain the rear hedgerow

should be attached. Screen planting should be agreed with DCC and planted along the party boundary.

- Traffic Safety/ Traffic Impacts
 - The lane is short, narrow, private Cul de Sac, with 4 no. Mews dwellings on one side.
 - There is no footpath on the lane.
 - The lane is not in charge and is privately maintained by residents.
 - There is restricted visibility at the junction.
 - The proposals seem to encroach upon as opposed to widen the laneway.
 - Car Parking is very limited on the lane. Access for deliveries and trades men is very difficult. It is optimistic that a further 4 cars would have sufficient turning space to park.
 - The existing pedestrian access to the side of bungalow dwelling on the west side of the lane would be severely restricted by reason of additional parking arising because of the proposed development.
 - There is insufficient space on the lane for the erection of hoarding which will impede access for cars and emergency vehicles.
 - Harding will disrupt pedestrian safety particularly for pedestrians, the lane is used by local schoolchildren.
 - Construction traffic including cement lorries must currently reverse into the lane.
 - There are significant traffic safety implications which arise from the increased traffic movements generated as a result of the proposed development.
- Flood Risk
 - Insurance companies are refusing to quote cover for flooding to houses in this area as they consider flooding to be a high risk.

- Devaluation of Property:
 - The proposal will present a detrimental effect on the value of property.
- Services
 - There is no room on the lane for additional foul and surface water services/ nor is it permissible to have a sewer pipe near existing services (gas/ water).
- Other Matters
 - Noise and Disturbance: There will be considerable extra noise and disturbance resulting from the proposed development.
 - Lack of Consent: A boundary wall is proposed to be demolished. The Applicant has no ownership to either the wall or the lane. Permission for scaffolding or hoarding on the lane will not be provided.
 - Inaccuracy of Plans and Computer-Generated Images (CGI): The submitted plans are inaccurate and do not correctly indicate the true positions of all structures on adjacent lands or refer to correct current dwelling names. The CGI's include existing foliage which will be omitted as part of the development proposals and are therefore misleading.
 - Misleading statements in the supporting Planning Report regarding the widening of the lane. The proposals appear to encroach upon the lane rather than widen it.
 - There is no history of any previous structure on the subject site.
 - Precedent Cases: The precedent infill development cases as referenced by the Applicant are not relevant to the situation and refer to totally difference environments. Each application is dealt with on its own merits.

6.5. Further Responses

- None.

7.0 Assessment

7.1. Introduction

7.1.1. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, and having inspected the site, and having regard to relevant local/ regional/ national policies and guidance, in my opinion, the substantive issues in this appeal are as follows:

- Zoning
- Design, Layout and Character of the Area
- Residential Amenity
- Access, Traffic & Parking (New Issue)
- Flood Risk (New issue)
- Other issues
 - Appropriate Assessment
 - Devaluation of Property
 - Precedent Cases
 - Sufficient Legal Interest

7.2. Zoning

7.2.1. The Appeal site is zoned Z1 - Sustainable Residential Neighbourhoods, the zoning objective for which is *'To protect, provide and improve residential amenities'*. Residential use is permitted in principle on lands zoned Z1, subject to assessment against normal planning considerations. These matters are discussed in turn below.

7.3. Design, Layout and Character of the Area

- Character of the Area

7.3.1. I would agree with the Local Authority that the site is somewhat unusual in that it could be considered both a mews site and an infill site. Having regard to the location of the site between 2 no. mews lanes and to the surrounding context and character of the area, I am satisfied that the appeal site is a mews site and is also an infill site. I am also of the opinion that the appeal site also has some characteristics of a

backland site as described in Section 15.13.4 of the Plan, positioned as it is, to the rear of a dwelling to the north-west and dwellings to the south-east.

- Design and Layout

- 7.3.2. Having regard to the mews setting of the appeal site, development plan guidance relating to mews development (Section 15.13.5) is of primary relevance. With specific regard to the design guidance presented in Sections 15.13.5.1 to 15.13.5.4 (Design and Layout), (Height, Scale and Massing), (Roofs) and (Access), it is noted individual proposals can be considered on a case-by-case basis, despite the preference of the Local Authority towards a more unified approach to the development of residential mews lanes and where the consensus of all property owners has been agreed.
- 7.3.3. The contemporary design format proposes the use of metal sheet cladding on all upper floor elevations. Although the proposal is to agree the details and specifications at a later stage, it is noted the presented photomontage views show dark brown vertical metal panels. In my opinion, the proposed materials do not respect or suitably compliment the established design character of the area and are not of a similar colour palette and format to that of the main structures on Sandymount Road and Tritonville Road, which include, for example, red brick, smooth plaster and slate pitched roofs.
- 7.3.4. The height, scale and massing of the building, particularly along Tritonville Lane, in my view, is also not in keeping with the established character of the area. The building, particularly at first floor level, reads as a single block with a continuous roof profile of 26.5 metres in length and although a flat green roof is proposed parallel to the mews lane, the overall length of the roof profile, together with the proposed building height, scale and mass, in my opinion, serves to break the legibility and form of the original coach house terrace. In addition, no regard has been had to the established narrow plot widths in the area which serve as a relevant design reference.
- Building Line
- 7.3.5. The existing 4 no. mews dwellings on the eastern side of Tritonville Lane observe a stepped building line ranging between 3.6 metres for no. 1 and 6.4 metres for no. 4. The proposed building line is forward of the established side building line to the north

(No. 1 Tritonville Crescent) and at ground floor level is shown to be only 0.25 metres from the edge of the lane, see proposed floor plans drawing no. PL002 received on 27th June 2023. It is noted that the building line of the 2 no. dwellings previously approved on site, as planning reg. ref. no. 2901/16 (Appeal Ref. No. PL29S.247316) refers, is set back further into the site and is consistent with the established side building line of no. 5 Tritonville Court and no. 1 Tritonville Crescent.

7.3.6. It is my opinion that the proposed building line long the front of the site, which at its nearest point is 0.25 metres from the edge of the lane, is not reflective of the established building lines in the immediate area, the sensitive setting of the site along this mews lane nor indeed the established pattern of development in the area.

7.3.7. Therefore, it is my opinion that the proposed building line is not justified in this instance.

- Separation Distances

7.3.8. As per the proposed first floor plan, the first-floor separation distances from the north-west and south-east site boundaries is shown to be 1.6 metres respectively. In the case of the northern elevation, as per the proposed Site Layout Plan, Drg. No. FI000, lodged as part of the Appeal, the first -floor elevation measures 13.5 metres from the main rear elevation of No. 1 Tritonville Crescent and 10.8 metres from the ground floor rear extension. The ground floor element of the proposed development, which measures 3.2 metres in height, at its closest point, measures 9 metres from the ground floor rear extension of No. 1 Tritonville Crescent.

7.3.9. As per guidance provided in Section 15.13.4 of the Plan, which relates to backland development, a minimum separation distance of 15 metres from the rear façade of the existing dwelling is recommended. The proposed first floor separation distance at 13.5 metres is below this recommended minimum separation distance.

7.3.10. As per recommendations contained in Section 5.3.1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024, including SPPR1, separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces.

- 7.3.11. Although there are no windows proposed on the side north-west elevation and the applicant has demonstrated by way of a supporting Daylight and Overshadowing Analysis that the proposed development would not cause an unacceptable overshadowing impact on the neighbouring (north-western) rear garden amenity spaces or loss of access to sky for the windows facing the proposed development, it is my opinion that a reduced separation distance of 13.5 metres has not been suitably justified in this instance.
- 7.3.12. I would be concerned that the prominence and scale of the proposed development would have an overbearing effect on the residents of No. 1 Tritonville Crescent to such an extent that it would impact negatively upon the established residential amenities of said property.
- 7.3.13. It is noted there is no minimum separation distance set out in the Development Plan to the front of houses at ground floor level and that the aforementioned Guidelines, as per SPPR1 state that *'there shall be no specified minimum separation distance at ground level or to the front of houses, duplex units and apartment units in statutory development plans and planning applications shall be determined on a case by case basis to prevent undue loss of privacy.'*
- 7.3.14. It is estimated that no. 1 Tritonville Mews, at its nearest point, is within 11 metres from unit no. 1. This separation distance increases for no's 2 to 4 Tritonville Lane with no. 4 being 12 metres from the front boundary of the appeal site.
- 7.3.15. Both proposed units are shown to have a large, tall, south-west facing sitting room window on the front elevation with a narrow planting strip to the front of same. In the case of no. 2 Tritonville Mews the existing first floor bedroom window is estimated to be within 14 metres of the proposed sitting room window of unit no. 1.
- 7.3.16. It is noted that the first-floor windows along the front elevation are proposed to have perforated metal screens, which the Applicant states is to prevent overlooking. The said first-floor windows do not serve habitable rooms.
- 7.3.17. Notwithstanding the stated separation distances, it is my opinion, having regard to the established pattern of development and character of the area, that the proposed development will have an overbearing impact, particularly at first floor level upon the established residential amenities of residential properties in the area. The proposed

separation distances to the front of the property are therefore, in my opinion, not appropriate in this instance.

- 7.3.18. The part two storey/ part single storey design of the dwellings is noted as well as the proposed set back at first floor level from the rear north-eastern site boundary. The proposed separation distances, at first floor level, exceed the minimum separation distance of 16 metres referenced in SPPR1 of the Guidelines.
- 7.3.19. The proposals show a total of 9 no. full height (3.5 metre high) windows of varying widths, the majority (6 no.) measuring 2.2 metres in width. I would share the view of the Local Authority that the subject large floor to ceiling windows, approximately 9-11m from the rear boundary, would call into question the privacy of future occupants and that of the rear gardens of the properties to the rear. I am satisfied that the proposed fenestration to the rear, as initially presented, and by reason of the excessive height and scale of said windows, is not appropriate and has the potential to comprise both the residential amenities of future occupants and that of established residential properties in the area.
- 7.3.20. The Applicant has presented a revised fenestration proposal for the rear elevation for the consideration of the Board. The revised proposals are for the same number of windows (9 no. in total) with the majority (6 no. in total) having the same width. While the revised proposals, in my view, serve to partially address the concerns, with specific regard to the privacy of future occupants by reason of the substantially reduced glazing areas, I note the overall quantum of windows has not changed nor have the internal floor plans. The 9 no. windows will still serve 8 no. bedrooms. I am not satisfied that the revised fenestration arrangement serves to suitably address the concerns of the Local Authority in respect of the anticipated loss of privacy for the rear amenity spaces of established residential properties in the area.
- 7.3.21. In addition, I am of the opinion, that while the revised design proposals are more conventional in appearance, they are at odds and out of character with the proposed architectural style of the building, particularly the fenestration arrangement along the proposed front elevation.
- 7.3.22. Therefore, it is my opinion that although the proposed separation distances exceed the minimum recommended distance 16 metres between opposing first floor windows to the rear of the property, the excessive number of windows together with

the fenestration arrangement and the proximity to the rear of the site is such that the proposed development, as a whole, will impact negatively upon the established residential amenity of properties in the area by way of a loss of privacy to the rear garden spaces of said properties.

7.3.23. I do not accept the Applicant's opinion that the previous planning permission is more impactful to adjoining residential amenities.

- Overdevelopment

7.3.24. The proposed separation distances, together with the extent of development to the extremities of the site, in my view, represents an overdevelopment of the site which will serve to have an overbearing impact on surrounding properties, particularly for the dwelling to the north-west and those on the opposite side (west) of Tritonville Lane.

- Conclusion in relation to Design, Layout and Character of the Area

7.3.25. I am satisfied that the design and layout of the proposed development, by reason of the design, height, scale, mass, materiality, separation distances, roof profile and building line, is not in keeping with the established character of the subject mews lane and that of the immediate locality, will appear overbearing and, as such, represents an overdevelopment of the site.

7.4. Residential Amenity

7.4.1. A design checklist is set out in Appendix D of the Sustainable Residential Development Guidelines and Compact Settlement Guidelines, 2024. Point no. 4 of same relates to a Responsive Built Form. Point no. 4 iii), asks: *Does the layout, scale and design features of new development respond to prevailing development patterns (where relevant), integrate well within its context and provide appropriate transitions with adjacent buildings and established communities so as to safeguard their amenities to a reasonable extent?*

7.4.2. In my opinion, the proposed development does not satisfy the above adhere to the above guidance and does not represent a responsive built form which provides an appropriate transition with adjacent buildings and established communities. I am satisfied that the proposed development, as set out under several points further

above, does not serve to safeguard the residential amenities of surrounding residents to a reasonable extent.

7.4.3. I am satisfied that the proposed development will impact negatively upon the established residential amenities of the area.

7.5. Access, Traffic & Parking (New Issue)

7.5.1. The issues of traffic impacts and traffic safety, including restricted visibility at the junction of the private laneway with the public road, are raised in the observations received. The Board will note the decision of the Local Authority is informed by a Reports from the Roads Streets & Traffic Department Road Planning Division. The Board will further note that under the previous permission on site, as planning reg. ref. no. 2901/16 (Appeal Ref. No. PL29S.247316) refers, a total of 4 no. car parking spaces were permitted, i.e., 2 no. per dwelling in the form of 1 no. conventional space and 1 no. garage space.

7.5.2. Tritonville lane is a private laneway, has a regular width of c. 5.9 metres and accommodates parking on one side. I would agree with the assessment of the Local Authority that sufficient space remains on the lane for the passing of vehicles.

7.5.3. A Design Checklist is provided in Appendix D of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024. Section 1 iii) refers to the Design Manual for Urban Streets and Roads (DMURS) and asks: *'Are streets designed (including the retrofitting of existing streets adjacent to or on-route to the site, where appropriate) in accordance with DMURS to calm traffic and enable the safe and comfortable movement of vulnerable users?'*

7.5.4. The subject appeal site is proposed to be accessed via Tritonville Lane which in turn is accessed via the public road at Tritonville Crescent to the north. The Board will note that sight visibility splays at the junction of the private lane with the public road are severely restricted and that the side walls of the lane are defined by a high stone wall on the south-western side and a high wall and timber fencing on the north-eastern side. It is further noted there are double yellow lines on the northern and southern sides of Tritonville Crescent meaning the said restricted visibility is not further impeded by parked vehicles. The public road at Tritonville Crescent facilitates two-way traffic and the lane itself, although narrow can also accommodate passing traffic. It is my view that vehicles exiting the lane will be forced to nose out cautiously

into traffic owing to the severely restricted sight visibility at this junction. This, in addition to the restricted length of the laneway means that traffic exiting the lane will be more cautious and therefore likely to travel at lower speeds. Having regard to the anticipated lower traffic speeds, I am satisfied that the proposed development is acceptable from a traffic safety perspective.

7.5.5. The Applicant is proposing to provide 2 no. car parking spaces per dwelling (4 no. car parking spaces in total). Guidance in relation to the provision of Car Parking is provided in the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024, see Section 5.3.4 and SPPR 3 - Car Parking. The appeal site is in an Urban Neighbourhood, as defined in Table 3.1 of the Guidelines where, as per SPPR 3, *'car-parking provision should be minimised, substantially reduced or wholly eliminated. The maximum rate of car parking provision for residential development at these locations, where such provision is justified to the satisfaction of the planning authority, shall be 1 no. space per dwelling'*.

7.5.6. It should be noted that the maximum number of car parking spaces as per the Development Plan standards is 1 space per dwelling. In my view there is an over-provision of car parking proposed.

7.5.7. If the Board is of a mind to Grant permission, a condition could be attached which omits car parking in its entirety from the subject appeal site.

7.5.8. Traffic safety is a new issue, and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

7.6. Flood Risk (New Issue)

- *Introduction*

7.6.1. Residential development is classed as a highly vulnerable form of development in the Flood Risk Management Guidelines, 2009. Section 3.5 of the Guidelines sets out the following 3 no. flood zones, i.e., Flood Zone A: High Probability of Flooding, Flood Zone B: Moderate Probability of Flooding and Flood Zone C: Low Probability of Flooding. Most forms of development in Zone A would be inappropriate. Development within Flood Zone A is to be avoided and/ or only considered in

exceptional circumstances, such as in city and town centres, or in the case of essential infrastructure that cannot be located elsewhere, and where the Justification Test has been applied. Highly vulnerable development, in Flood Zone B, would generally be considered inappropriate in this zone, unless the requirements of the Justification Test can be met.

- *Site Specific Flood Risk Assessment (SSFRA)*

7.6.2. The Applicant submitted a SSFRA in response to the Local Authority Request for Further Information. The Stage 1 SSFRA Screening found that the primary potential flood risk to the proposed development site can be attributed to an extreme fluvial flood and/ or tidal influenced flood event in the River Dodder and Dublin Bay. The Screening also found a secondary flood risk can be attributed to pluvial flooding from the urban drainage network and water supply infrastructure in the vicinity of the site.

7.6.3. The main points of the Screening Assessment, as presented in Section 4.0 of the SSFRA, can be summarised as follows:

- The CFRAM maps indicate that there is potential FLUIVAL flood risk from a flood event with an 0.1% Annual Exceedance Probability (AEP) at the site with an estimated flood depth of 1.5 m - 2.0 m.
- The CFRAM maps indicate that there is potential COASTAL flood risk from a flood event with an 0.1% AEP at the site with estimated 0.1% AEP flood depth of 0.5m - 1.0 m.
- Table 2 provides a summary of predicted tidal water levels on the proposed development site for the current scenario 0.1% AEP and 0.5% AEP COASTAL flood events. For the 0.1% AEP a depth of 0.5 to 1.0 metres is indicated. For the 0.5% AEP a depth of 0 metres is indicated.
- Table 3 provides a summary of predicted fluvial water levels on the proposed development site for the current scenario 0.1% AEP and 1.0% AEP FLUVIAL flood events. For the 0.1% AEP a depth of 1.5 to 2.0 metres is indicated and for the 1% AEP a depth of 0.5 to 1.0 metre is indicated.
- Figure 10 shows an extract from the Irish Coastal Protection Strategy Study (ICPSS). The map illustrates the predicted extreme 0.5% AEP (1 in 200 year)

coastal flood extents in the vicinity of the proposed development site for the mid-range future scenarios.

- The ICPSS mapping for the area also provided information on predicted tidal flood levels of several node points in Dublin Bay.

7.6.4. A Stage 2 Scoping Assessment is presented in Section 5.0 of the SSFRA. The main points can be summarised as follows:

- A site investigation has identified a low water table, indicating the site is not particularly susceptible to groundwater flooding.
- ...an appropriate flood risk assessment can be derived from the information collated as part of the screening exercise alone, ... and provide a reasonably accurate delineation of flood zones and prediction of extreme flood events at this location.
- there isa high level of confidence in the prediction of flood extents and levels in the vicinity of the proposed site.

7.6.5. Section 6.0 of the SSFRA relates to Assessing Flood Risk and includes an Estimation of Extreme FLUVIAL & COASTAL Flood Levels (including a climate change scenario) and an Estimate of Extreme PLUVIAL Flood Risk from Urban Drainage. The main findings can be summarised as follows:

- In the case of Extreme FLUVIAL & COASTAL Levels the flood level inundation that may potentially occur at the site is 3.6 aOD. The Applicant considers therefore that the proposed development site would be impacted by a tidal & fluvial event in the River Dodder and therefore falls within Flood Zone A FLUVIAL and Zone B COASTAL.
- Most forms of development are deemed to be inappropriate in Flood Zone A unless the requirements of the Justification Test for Plan Making are met and that only water compatible development would normally be allowed.
- The site is within a defended area from COASTAL Flooding.
- 2 no. Climate Change Scenarios are presented in the Dublin City Council Strategic Flood Risk Assessment (DCC SSFRA), i.e., the Mid-Range Future

(Likely) Scenario (MRFS) and the High-End Future (Extreme) Scenario (HEFS).

- The average site level is measured at 1.6 metres.
- In consideration of the Mid-Range future climate change scenario, the relevant 0.1% (1 in 1,000 year) TIDAL flood levels applicable to the proposed development site is stated to be 2.0 metres + 1.6 metres = 3.6 metres aOD.
- Apart from the site entrance point, overall, the secondary and residual PLUVIAL flood risk to the proposed development site due to the surcharge or failure of the urban drainage and water supply network is low.

7.6.6. Section 7.0 of the SSFRA discusses the Proposed Development in the Context of the Flood Risk Management Guidelines, 2009. Each of the 3 no. Flood Zones A, B & C are discussed and explained.

7.6.7. Section 8.0 provides a Discussion where the main findings can be summarised as follows:

- A definition is presented for Minor Infill Development as per Section 5.28 of the Guidelines. Such Minor Infill developments are exempt from a requirement to carry out a Justification Test. Where possible, the design of built elements in these applications should demonstrate principles of good design. (Reference is made to Section 4 - Designing Flood Risk Management Guidelines) of the Technical Appendices of the Flood Risk Management Guidelines).
- In the case of key development sites in the plan, it has been recognized that ground levels below predicted tide levels could be allowed, in limited circumstances, on a site-by-site basis, for commercial and business developments. Such development would be required to be of flood resistant construction. Residential uses would not be permitted in high-risk zones. For residential uses in Flood Zone A and B, bedroom accommodation shall not be permitted at basement or ground floor.
- Steps in relation to emergency access during and recovery after a flood event for both residential and commercial developments is then discussed.

- The requirement for providing compensatory storage for minor developments has been reviewed and can generally be relaxed, even where finished floor levels have been raised. This is because the development concerns land which has previously been developed and would already have limited capacity to mitigate flooding.
- The analysis and flood zone delineation undertaken as part of this Site-Specific Flood Risk Assessment (SSFRA) indicates that the proposed development site may fall within a current scenario TIDAL & FLUVIAL 0.1% AEP (1 in 1,000 year) Flood Zone A.
- The footprint area of the proposed development site (c. 120 sqm), as proposed, is not expected to result in any significant displacement of extreme 0.1% AEP TIDAL & FLUVIAL flood waters, is not expected to obstruct flood conveyance routes and is not expected to result in an adverse impact to the hydrological regime of the area or significantly increase flood risk elsewhere.
- In consideration of the estimated current scenario and building floor levels and future scenario extreme tidal flood levels, it would not be feasible to construct proposed finished ground levels above predicted extreme floor levels.
- To enable a sustainable development of the site it is therefore recommended that appropriate flood risk management and mitigation measures are implemented as part of the development proposals for the site.
- Section 10 provides outline recommendations for flood risk management and mitigation measures appropriate to the proposed development site.

7.6.8. Section 9.0 of the SSFRA is titled Justification Test for Development Management. The initial main points, as presented by the Applicant, are summarised as follows:

- The Applicant acknowledges that the proposed development may fall within a current scenario FLUVIAL & COASTAL 0.1% AEP (1 in 1000 year) Flood Zone A and that the development proposals for the site (residential development) is considered as 'Highly Vulnerable Development'. It is further acknowledged that therefore development proposals for the site will be subject to the Justification Test.

- The Applicant's Justification Test is set out in Section 9.1 of the SSFRA which is consistent with the criteria listed under Box 5.1 of 'the Planning System and Flood Risk Management Guidelines, 2009'.
- Under Criteria 1 of Box 5.1 the Applicant notes that the subject lands are zoned for residential development. Under Criteria 2 i) the Applicant notes that the site is susceptible to future climate change scenario TIDAL flood events and to a future climate change COASTAL flood event and submits that the proposed development is not anticipated to result in any significant displacement of extreme flood waters or significantly increase flood risk elsewhere and that flood resistance & resilience measures for the site will reduce the flood risk of the development. Under Criteria 2 ii) the Applicant submits that the proposed flood resistance and resilience measures minimise the risk to the property and that a proposed flood evacuation plan minimises the risk to occupants. The Applicant submits under Criteria 2 iii) that the proposed flood protection measures are site specific to the development of private residential units with individual direct access to the public road network and that there is negligible residual risk to the area for emergency services access. Under Criteria 2 iv) the Applicant states the proposed residential development is situated in a city centre location, that there is no proposed new road network infrastructure, that individual direct access is proposed to the existing public road network and that the existing streetscapes will not be affected.
- The remainder of the Applicants Justification Test is then presented under criteria relating to the Justification Test for Development Plans as set out in Box 4.1 of the Guidelines. In this regard, the Applicant refers to Area 10 of the DCC SFRA.

7.6.9. The Applicants proposed Flood Risk Management & Mitigation Measures are presented in Section 10 of the SSFRA and are summarised as follows:

- The proposed flood resistance measures include design floor resilient construction to most of the boundary walls, reinforced flood defence walls, the installation of temporary flood gates or in lieu of same sandbags, a secondary

defence for the design of the exterior doors and non-return valves or anti-flood valves to be fitted to the drainage network.

- The proposed flood resilience resistance measures include the design of ground floor electrical appliances, service metres, fuse boxes, sockets and wiring, all placed above anticipated flood levels, no bedrooms are proposed on the ground floor levels, internal design measures (the requirements of safe access, refuge and evacuation are provided by the provision of a first-floor accommodation in the design of development), flood resistant wall tanking, proprietary flood protection devices and an Evacuation Plan.
- The Summary Conclusions and Recommendations of the SSFRA are presented in Section 11 of the Report. The Applicant states that the development as proposed is appropriate from a flood risk perspective.

7.6.10. **Assessment – Application of Justification Test**

7.6.11. The proposed development seeks planning permission for the construction of 2 no. dwellings, which constitutes highly vulnerable development as per the classifications set out in Table 3.1 of the Flood Risk Management Guidelines, 2009. The subject lands are identified as being at risk of flooding. The proposed development is therefore required to satisfy the criteria set out in the Justification Test in Box 5.1 of the Guidelines. A Justification Test is set out in Section 9.1 of the Applicants SSFRA.

7.6.12. Criteria 1 requires the subject lands to have been zoned or otherwise designated for the form of development in an operative development plan, which has been adopted or varied taking account of the Guidelines. The subject lands are zoned Z1 – Sustainable Residential Neighbourhoods (Zoning Objective *‘to protect, provide and improve residential amenities’*) in the Dublin City Council Development Plan, 2022 to 2028. I am satisfied that residential development is a use which is Permitted in Principle under the said zoning objective and therefore I am satisfied that the proposed development satisfies criteria no. 1.

7.6.13. The second Criteria requires that a Flood Risk Assessment be carried out to demonstrate that the proposed development will not have adverse flood risk impacts. A summary of the findings and recommendations of the Applicants’ Site-Specific Flood Risk Assessment (SSFRA) is provided in the previous sections of this Report. In short, the Applicant concludes that the site is at risk of flooding from a tidally

influenced flood event and direct fluvial flooding from the River Dodder, the implementation of Flood Risk Management and Mitigation measures including flood gates and sandbags are recommended, the development as proposed is not expected to result in an adverse impact on the hydrological regime of the area, is not expected to adversely impact on adjacent lands or properties or increase flood risk elsewhere and the development, as presented, is therefore considered to be appropriate from a flood risk perspective.

- 7.6.14. I am not satisfied that the proposed mitigation measures will be sufficient to ensure that residual risks to the development can be managed to an acceptable level. The reliance in the SSFRA upon flood resistance measures and the proposed finished floor levels of the dwellings are of particular concern.
- 7.6.15. It is recommended in Section 5.16 of the Guidelines that the risks should be mitigated and managed through the location, layout and design of the development to reduce such risks to an acceptable level. Such residual risks should be considered carefully, considering the type of development and its vulnerability, how flood risks to the occupants will be managed, insurance provision, scale of the risks and the provision of flood defence works. It is further advised that a precautionary approach would be to set floor levels above the 1% AEP flood level ignoring the moderating effects of flood defences.
- 7.6.16. The Guidelines recommend that to mitigate flood risk, minimum floor levels for new development should be set above the 1 in 100 river flood level (1 in 200 coastal flood level) including an allowance for climate change, with appropriate freeboard.
- 7.6.17. In the subject case, the FFL of the proposed dwellings is shown as 1.68 metres which is the same as the existing ground level. The 1 in 100 (1% AEP) river flood level, without an allowance for climate change or appropriate freeboard is indicated to be 0.5 to 1.0 metres. The Applicant has not provided a specific figure for the 1% AEP (1 in 100) river flood level, with an allowance for climate change or appropriate freeboard. The 0.5% AEP (1 in 200) coastal flood level, with an allowance for climate change is similarly not provided. Although the applicant is proposing to provide flood management and mitigation measures, I am not satisfied that such an approach is appropriate for the proposed 2 no. dwellings on the subject site, which qualify as

highly vulnerable development. I am therefore not satisfied that the proposal meets the criteria for the justification test.

7.6.18. Given the lack of sufficient information presented in this regard, I cannot say with certainty that the proposed development would not give rise to an increased risk of flooding for the site or of property in the vicinity of the site.

7.6.19. I do not consider the subject site qualifies as 'minor development' as described in Section 5.28 of the Guidelines as appears to be inferred by the Applicant in Section 8.0 of the SSFRA. I similarly do not agree with the Applicant that the appeal site is in the City Centre. The site is instead, in my view, located in an Urban Neighbourhood, as described in Table 3.1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024.

7.6.20. Therefore, having regard to the precautionary approach, I recommend that permission be refused.

7.6.21. The Board should note that the issue of Flood Risk Assessment arose during the assessment of the planning application by the Local Authority, see item no. 3 of the request for further information and the subsequent assessment of the issue by the Drainage Department and the Local Authority Planner.

7.6.22. This is a new issue, and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

7.7. Other issues

- *Appropriate Assessment*

7.7.1. Having regard to the nature and scale of the proposed development and the distance from 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.

- *Devaluation of Property*

7.7.2. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. In the absence of any definitive supporting evidence to the

contrary, I cannot say with certainty that the proposed development would adversely affect the value of property in the vicinity.

- *Precedent Cases*

7.7.3. While the cases referenced in the appeal are noted, all appeal cases are assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development. The subject site is unique and has an entirely different setting and context to that of the referenced cases. The cited cases are therefore, in my opinion, not of any direct relevance to the subject case.

- *Sufficient Legal Interest*

7.7.4. In terms of the legal interest, I am satisfied that the applicant has provided sufficient evidence of their legal interest for the purposes of the planning application and decision. Any further consents that may have to be obtained are essentially a subsequent matter and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the Planning and Development Act, 2000 to 2023.

8.0 Recommendation

8.1. Recommendation

8.1.1. I recommend that permission be refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. The proposed development, by reason of its excessive height, bulk and massing relative to surrounding buildings, its separation distance from adjoining boundaries, its building line, fenestration pattern, proposed materials and its overall design, would be out of character with the pattern of development in the vicinity, would represent the overdevelopment of the site and would constitute a visually discordant feature that would be detrimental to the distinctive architectural and historic character of this area, a mews lane, which it is appropriate to preserve. The proposed development would have a seriously negative impact on the established residential amenities of the adjoining residential conservation area and its surrounding neighbouring properties and would therefore be contrary to the Dublin City Development Plan 2022 to 2028, zoning objective for the area and sections 15.5.2 & 15.13.5 which refer to infill housing and mews developments respectively. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site in an area which is prone to flooding and based on the submissions made in connection with the application and appeal, the Board is not satisfied that the proposed development would not give rise to an increased risk of flooding of the site or of property in the vicinity. The proposed development would, therefore, be prejudicial to public health and safety and would be contrary to the proposed 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.

Frank O'Donnell

Planning Inspector

29th February 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317383-23		
Proposed Development Summary	Construction of 2 residential dwellings		
Development Address	Lands situated to the immediate south-east of No. 1 Tritonville Crescent, the rear of No. 29 Sandymount Road and to the immediate north-west of Nos. 5-6 Tritonville Court, on Tritonville Lane, Sandymount, Dublin 4.		
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	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class 10(b), Schedule 5 Part 2	EIA Mandatory EIAR required
No	√	N/A – Below threshold	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required
Yes	√	Class/Threshold..... 10 (b)	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	√	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-317383-23	
Proposed Development Summary	Construction of 2 residential dwellings	
Development Address	Lands situated to the immediate south-east of No. 1 Tritonville Crescent, the rear of No. 29 Sandymount Road and to the immediate north-west of Nos. 5-6 Tritonville Court, on Tritonville Lane, Sandymount, Dublin 4.	
The Board carries 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.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	The proposed development to 2 no. residential units (stated area 0.580 ha) is within an area zoned residential in the Dublin City Development Plan 2022-2028. The proposed development is to connect to public services. As per the documentation submitted, including the Drainage Design Report, the proposed development will not result in significant emissions or pollutants.	No No
Size of the Development		

<p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>This proposal is for the construction of 2 no. residential units and is far below the threshold of 500 units and below 10ha as per Class 10(b) of Schedule 5 of Part 2 of the Planning and Development Regulations 2001 (as amended).</p> <p>Please refer to the Planning History Section of this Report. No significant cumulative considerations.</p>	<p>No</p> <p>No</p>
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>Residential Development on serviced site on zoned lands and proposal includes regard to surface water drainage and the incorporation of SuDS.</p>	<p>No</p> <p>No</p>
<p>Conclusion</p>		

<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>
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Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)