



An
Bord
Pleanála

Inspector's Report

ABP-317417-23

Development

Demolition of outbuilding and 2 garden walls to the rear of Trident House apartments. Construction of 4 houses and all associated site works.

Location

Trident House, 60 Claremont Road,
Sandymount, Dublin 4

Planning Authority

Dublin City Council South

Planning Authority Reg. Ref.

3047/23

Applicant(s)

Santa Catalina Limited and Santa Cruz Limited

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party Appeal (s)

Appellant(s)

Brendan Burgess

Liz Gallagher

Cara Walsh and Stewart Atkinson

Sarah McKeogh and Glenn Reynolds

Residents of Tritonville Road

Observer(s)

Orlaith Meehan

John McKenna

Date of Site Inspection

24th November 2023

Inspector

Frank O'Donnell

1.0 Site Location and Description

- 1.1. The appeal site is located at 60 Claremount Road, Sandymount, Dublin 4. The site has a stated area of 0.19 hectares and comprises of an existing 3 storey apartment building (Trident House) located to the front (south) of the site, associated hard standing areas to the front and rear and overgrown backlands further to the rear. The site has a general rectangular/ dog leg shape and has a maximum road frontage of 21.6 metres and a maximum length of 85.6 metres. Existing site levels fall slightly in a northern direction from 2.00 metres AOD at the site frontage to the south to 1.57 metres AOD at the rear (north) of the site.
- 1.2. The site is bounded to the south by Claremount Road, to the east by no. 56 Claremount Road and the rear gardens of dwelling no's 1, 3, 5, 7 and part of no. 9 Farney Park, to the north by a garden area associated with no. 120 Tritonville Road and to the west by a narrow laneway which serves as a means of access to the rear of houses which face west onto Tritonville Road. The site is c. 400 metres from Sandymount Green and c. 1 km walking distance from Sandymount Dart Station.
- 1.3. The houses to the south-east along Claremount Road form a single two storey block. The dwellings to the east at Farney Park are all two-storey semi-detached structures and the west at Tritonville Road are a mix of two storey over basement and two storey terraced dwellings.

2.0 Proposed Development

- 2.1. Permission sought on 16th January 2023, for development comprising the following principal elements:
 - Demolition of 1 no. outbuilding to the rear of Trident House Apartments. This flat roofed outbuilding is stated to measure 13.9 sqm in area and is positioned a third of the way along the eastern site boundary.
 - Demolition of 2 no. rear garden walls orientated east to west and located in the rear half of the site.
 - The construction of 4 no. houses to the rear of Trident House Apartments. The houses are presented in 2 no. blocks of 2 no. three storey semi-detached units.

- The northern block comprises 1 no. Type A1 dwelling and 1 no. Type A2 dwelling (both 4-bedroom, 6-person units) with a stated floor area of 202 sqm and an overall height of 10.86 metres (13 metres AOD Ridge Level). This block is orientated along a general north-east to south-west axis.
- The southern block comprises 1 no. Type B1 dwelling and 1 no. Type B2 dwelling (both 3-bedroom, 6-person units) with a stated floor area of 179.49 sqm and an overall height of 10.86 metres (13 metres AOD Ridge Level). This block is orientated along a general east to west axis.
- The ground floors of each unit are presented as non-habitable space and include a store/ plant room, utility and a w.c. The ground floors are all shown to have a floor to ceiling height of 2.9 metres and each unit is also proposed to have a side car port on the ground floor.
- All dwellings have pitched roofs and a maximum building depth of 6 metres.

2.1.1. A **Request for Further Information** was issued on 13th March 2023 on 3 no. main points relating to:

1. Location relative to shared boundaries, Design, Scale, Massing (particularly House Type A) when viewed from Farney Park, revisiting the proposed full balconies, Juliette balconies and terraces when viewed from the private amenity space of the properties on Tritonville Road.
2. Design of the proposed front court of Trident Court in terms of the pedestrian entrance, safe access to the parking spaces noting potential conflicts and clarification of pedestrian routes to car parking. Any alterations to include the appropriate redesign for the apartment building.
3. Long Term and Visitor Cycle Parking for Trident House.

3.0 Planning Authority Decision

3.1. Decision

- The Local Authority decided to GRANT permission for the proposed development on 31/05/2023 subject to 14 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Local Authority Planner** concluded that having regard to the zoning provisions of the current Development Plan, the proposed development would not injure the amenity of property in the vicinity, and that the proposed development accords with both the Dublin City Development Plan 2022-2028 and the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports

- The **Drainage Division** raised no objection to the proposed development subject to conditions.
- The **Environmental Health Officer** raised no objection to the proposed development subject to conditions.
- The **Transportation Planning Division** raise no objection to the proposed development subject to 7 no. conditions.

3.2.3. Prescribed Bodies

None.

3.3. Third Party Observations

- 3.3.1. Dublin City Council received a total of 7 no. Third Party Observations from local residents in relation to the proposed development. The majority of the issues raised in the third-party observations are covered in the grounds of appeal.

4.0 Planning History

4.1. Planning History on the Appeal Site:

- **4789/22:** Permission for refurbishments works to the exterior of Trident House and construction of a new single storey outbuilding to the rear (new cold water storage tank). Permission was **GRANTED** on 08th December 2022 (7 no. conditions).

4.2. Adjacent site to the immediate south-west (No. 56 Claremount Road):

- **WEB1191/20 (Appeal Ref. No. ABP-307776-20):** Two storey extension to side and a one, two and three storey extension to rear. Attic conversion. Garden Room to end of rear garden. Permission was **GRANTED** on 18/11/2020 subject to a MODIFIED condition no. 3 (Design Changes).

4.3. Adjacent site to the immediate east (No. 1, Farney Park):

- **4453/18 (Appeal Ref. No. ABP-303770-19):** Demolition of garage and construction of extension to side, new dormer window to rear first floor to rear. Permission was **GRANTED** on 22/05/2019 (6 no. conditions).

4.4. Adjacent site to the immediate east (No. 5, Farney Park):

- **2500/14:** Single storey rear and side extension. Rear dormer window/ conversion of roof space to playroom. GRANTED on 11/07/2014 (7 conditions).

4.5. Adjacent site to the immediate west (No. 140, Tritonville Road):

- **WEB2025/22:** Removal of the existing rear boundary wall and vehicular entrance. New single storey garage/shed/home office structure in the rear garden with new vehicular and pedestrian entrance onto laneway. GRANTED on 28/02/2022 (10 Conditions).

4.6. Adjacent site to the immediate west (No. 136, Tritonville Road):

- **3274/18:** Alterations to the rear boundary wall and provision of a vehicular access onto the existing laneway which exits onto Claremont Road, provision of a new sliding vehicular access gate and the provision of a car parking area to rear of the site. GRANTED on 18/10/2018 (6 no. conditions).
- **2534/17:** Construction of a part single storey, part two storey, part three storey extension to the rear. GRANTED on 11/08/2017 (7 no. conditions).

4.7. Adjacent site to the immediate north (No. 120, Tritonville Road):

- **5396/04 (Appeal Ref. No. 212775):** House with access via laneway from Charlemont Road. REFUSED on 21/10/2005 for 2 no. reasons relating to i) substandard access/ traffic safety and ii) Scale and Height/ Injurious to amenities of the area.

5.0 Local Planning Policy

5.1. 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 Appeal site is predominately zoned Z1 - Sustainable Residential Neighbourhoods in the Dublin City Council Development Plan, 2022 to 2028. The balance of the lands at the north of the site are zoned Z2 - Residential Neighbourhoods (Conservation Areas). The relevant zoning objective for Z1 lands is: *'To protect, provide and improve residential amenities'*. Residential is a use which is Permitted in Principle on lands zoned Z1 - Sustainable Residential Neighbourhoods. The relevant zoning objective for Z2 lands is: *'To protect and/or improve the amenities of residential conservation areas'*. Residential is a use which is Permitted in Principle on lands zoned Z2 - Residential Neighbourhoods (Conservation Areas).

5.1.2. Chapter 4 relates to the Shape and Structure of the City and includes the following relevant Policies:

- 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

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

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, QHSN22: Adaptable and Flexible Housing, QHSN35: Diversity of Housing Type and Tenure, QHSN37: Houses and Apartments,

Objectives:

- QHSNO4: Densification of the Suburbs.

5.1.4. Chapter 11 relates to Built Heritage and Archaeology.

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

- Chapter 15 relates to Development Standards and includes the following relevant Sections:
 - 15.4: Key Design Principles, 15.5: Site Characteristics and Design Parameters, 15.6: Green Infrastructure and Landscaping, 15.7: Climate Action, 15.8: Residential Development, 15.9: Apartment Standards, 15.11: House Developments, 15.13: Other Residential Typologies

5.1.6. The following Appendices are of relevance:

- Appendix 1 – Housing Strategy (Annex 1 – Housing Needs Assessment (HNDA), Annex 2 - Dublin City Housing Supply Target Methodology & Annex 3 - Dublin City Sub-City HNDA), 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 6 – Conservation, Appendix 7 – Guidelines for Waste Storage Facilities, Appendix 10 – Infrastructure Capacity Assessment, 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, Appendix 18 - Ancillary Residential Accommodation.

5.2. Natural Heritage Designations

5.2.1. The site is not located within or adjacent to a Natura 2000 site.

5.3. EIA Screening

5.3.1. The application is accompanied by an Environmental Impact Assessment (EIA) Screening Report. The Report is presented under the main headings of Introduction, EIA Screening Background, The Proposed Development (Location of Proposed Development Overview, Project Details), Aspect of the Environment Likely to be Significantly Affected by the Proposed Development, Screening Considerations

(Project Type, Subthreshold Development, Schedule 7 Criteria), Conclusions, Appendix.

5.3.2. The EIA Screening Report includes Schedule 7 information. Where an application is made for subthreshold development and Schedule 7A information is submitted, the Board must carry out a screening determination in line with the requirements of Article 109(2B)(a)(b) of the Planning and Development Regulations, therefore, it cannot screen out the need for EIA at preliminary examination.

5.3.3. This proposed development is of a class of development included in Schedule 5, Part 2 of the Planning and Development Regulations, 2001 to 2023. A mandatory EIA is required for the following classes of development:

- *Class 10 (b) (iv) urban development, which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. (In this paragraph 'business district' means a district within a city or town in which the predominant land use is retail or commercial use).*

5.3.4. The reports submitted with the application address a variety of environmental issues and the environmental impacts of the proposed development. The reports demonstrate that, subject to the various recommended construction and design related mitigation measures, the proposed development would not have a significant impact on the environment. I have had regard to the characteristics of the site, the location of the proposed development, and the type and characteristics of the potential impacts. Having regard to the Schedule 7A information, I have examined the sub-criteria and all submissions, and I have considered all information that accompanied the application and appeal, including the following:

- Appropriate Assessment Screening Report
- Architectural Design Statement
- Daylight and Sunlight Assessment
- Ecological Impact Assessment
- Energy Statement
- Engineering Report

- Mechanical & Electrical Utilities Report
- Preliminary Construction and Environmental Management Plan
- Site Specific Flood Risk Assessment
- Traffic & Transportation Statement

5.3.5. I have completed an EIA screening assessment of the proposed development with respect to all relevant considerations, as set out in Appendix 2 to this report. Having regard to:

- The nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2023.
- The location of the proposed residential development on lands zoned within the Dublin City Development Plan 2022-2028 as Z1: Sustainable Residential Neighbourhoods, the stated objective of which is to protect, provide and improve residential amenities; and Z2: Residential Neighbourhoods (Conservation Areas) with a stated objective to protect and/or improve the amenities of residential conservation areas where residential is a use that is classed as Permitted in Principle; and the results of the Strategic Environmental Assessment of the Development Plan;
- The nature of the existing site and the pattern of development in the surrounding area;
- The availability of mains water and wastewater services to serve the proposed development;
- The location of the development outside of any sensitive location specified in Article 109(4)(a)(v)(I-VII) of the Planning and Development Regulations 2001, as revised;
- The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);

- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 to 2023, and;
- The features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the preliminary Construction Environmental Management Plan.

5.3.6. I am satisfied that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not, therefore, be required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A total of 5 no. appeals were received from the following neighbouring residents in respect of the decision of Dublin City Council to Grant planning permission:

- Brendan Burgess.
- Cara Walsh & Stewart Atkinson.
- Liz Gallagher.
- Residents of Tritonville Road.
- Sarah McKeogh & Glenn Reynolds.

6.1.2. The following is a summary of the main Grounds of Appeal:

Height, Density, Scale & Massing/ visual Impact/ Overdevelopment

- Three stories is too high. Two and a half or two storeys may have been acceptable. The Ground Floor is intended as habitable space. The height could be reduced by designing the scheme as 2 storey and reducing the number of units by 1 or by way of an engineering solution for ground floor as a habitable space.
- The density at 84 units per hectare is considered excessive.

- Reason for refusal no. 2 on site to the north (appeal ref. no. 29S.212775) relates to excessive scale, height and proximity to boundaries and injury to residential amenity.
- The scheme will likely have a negative and profound visual impact.
- The proposed development results in an overdevelopment of the site and represents a significant intensification of this backland site.
- The proposal is contrary to Sections 15.5.2 (Infill Development) and 15.13.4 (Backland Development) of the Development Plan, the zoning of the appeal site and the proper planning and sustainable development of the area.
- The proposals are of poor urban design quality. The proposed development will be visually dominant, obtrusive and overbearing when views from residences on Tritonville Road.
- The existing deciduous trees along the laneway to the west offer not level of visual screenings for the autumn and winter months to the adjoining residents to the west.

Traffic and Car Parking

- The new road is unnecessary and should be removed. There is an over provision of car parking as per the relevant standard of 1 space per housing unit.
- A precedent case at Annesley Gardens is referenced as an example of where developers have circumvented the requirement for 1 no. car parking space per unit.
- The proposals reduce the number of car parking spaces available to the 12 no. apartments at Trident House to 5 no. spaces.
- Owing to the proximity of the site to high frequency, high-capacity public transport, the default position should be that no car parking be provided for the dwellings.
- It is unclear as to why vehicular access cannot be provided via the mews lane. It is unclear if this mews lane is proposed to be used to serve the lands to the north or if access to same is proposed via the subject site.

- The turning point will be used for car parking and will never be available for fire tenders or bin lorries. There is insufficient turning space for bin lorries.
- There is clearly not enough space to provide a road, a footpath and tree screening. Permission should be overturned on the basis of the Applicant's failure to provide tree planting.
- A new road would result in house no's 1 to 9 Farney Park turning into a traffic island as it will be surrounding by roads.
- If permission is granted and the access road is retained, the Board is requested to attach a condition which precludes access to the north without a separate grant of permission.
- The Board should satisfy itself that the road complies with Building Regulations.

Separation Distances

- The increased separation distance of 1.2 metres between House Type A and Farney Park is noted but is considered modest and does not represent an entire set back of the scheme.
- A further set back of House Type A from No. 5 and No. 7 Farney Park by a distance of 0.35 metres is immaterial.
- The dwellings are within 10 metres of the rear of the residential properties along Tritonville Road.

Flood Risk

- The flood risk has been increased instead of ameliorated.
- The Appropriate Assessment describes the site as '*predominantly covered by impermeable parking and small areas of landscaping.*' This is not true as per submitted Aerial View.
- The increased hardstanding areas may increase risks of localised flooding by reducing the green space available in Flood Zone A and B areas.
- Assurances should be provided that the onsite soakaway has been appropriately designed to deal with heavy/ extreme rainfall events and will not

impact local properties particularly in circumstances where the Engineering Report has described the site as '*predominantly covered by impermeable parking and small areas of landscaping.*' This is not correct.

- It is unclear how the proposed development located on green space and including several dwellings and hardstanding areas will not increase the risk of local flooding.

Amenity Impacts

- The Board should satisfy itself there is sufficient amenity space for the future residents of the scheme.
- The proposals offer minimal public open space for the existing Trident Apartments. The occupants of the Apartments do not have the benefit of any private open space in the form of a balcony or terraced area. The proposed area of public open space to the rear of the apartments will be in shadow for most of the year.

Impact on Residential Amenities/ Material Contravention of Development Plan

- The development contravenes the Z1 and Z2 zoning objectives by reason of excessive height, scale, form and massing and does not protect and improve local residential amenities.
- The proposed development will have a profoundly negative impact on the neighbouring properties and their associated rear garden.
- The proposals will result in excessive overshadowing of the residential properties to the west.
- The proposals will result in overlooking of the residential properties and associated rear gardens/ patio areas to the west and will result in a loss of privacy. This is contrary to Section 15.9.18 (Overlooking and Overbearance) of the Development Plan.

Sunlight and Daylight Analysis

- It is hard to believe that the proposal will not dramatically reduce the sunlight and daylight of said surrounding property. The loss of sunlight to windows has not been assessed.

- A VSE assessment was undertaken but a daylight distribution methodology does not appear to have been undertaken as required and as per BRE guidelines.
- Paragraph 4.2.3 of the Report refers to a creche. There is no creche in the development as per the statutory notices.
- The window locations shown in the report for nos. 3, 5, 7 and 9 Farney Park are incorrect. The Board is requested to clarify the above.

Artificial Lighting

- No updated lighting report was submitted showing the lighting impact of the amended proposals on nearby properties.
- The Application includes an Energy Statement. As per para 13.06 a drawing is referenced (Site Plan Street Lighting) showing the location of luminaries but then states that the location of luminaries are to be agreed with the architect. This is not acceptable.

Right to Light

- If planning permission is granted the residents of Farney Park intend to exercise their entitlement to light as a perspective easement.

Landscaping and Boundary Treatment

- Trees and/ or additional planting should be provided along the eastern site boundary. The amended site plan does not show any planting along the boundary.
- No boundary details to the rear of no. 5 Farney Park. Works to existing wall are proposed on development side only, i.e., capping, plastering and rendering.
- The existing boundary wall should be increased in height and the access road should be set back to provide for screen planting or permission should be refused.
- No significant account has been taken of the different ground levels. The Observers request that the height of the wall be increased.

- The proposals may impact upon the life and condition of existing trees along the laneway which will further compound impacts for existing residences to the west.

Zoning

- The Local Authority Planners assessment considers that Section 14.6 (Transitional Zone Area) of the Plan be applied to the site. It is clear that the Planning Authority has not properly assessed the proposed development having regard to Section 14.6 of the Plan.

Other matters

Premature Site Clearance/ Validity of the Planning Application

- Trees, vegetation and a garden wall removed on site without planning permission rather than retention permission being sought. The file may therefore be invalid. The site clearance works took place between February and Early March 2022.
- The trees and vegetation within the site formed part of the sylvian character of the area. The site is part of the local ecological network, which was not recorded or surveyed in advance of the site clearance.
- The tree survey does not appear to have been updated prior to the lodgement of the application. The ecological survey was carried out after the site clearance had occurred. The bat survey was also carried out post site clearance. The Arborists Report shows trees that were present before the site clearance, i.e., the trees were not present at the time the planning application was lodged. This is both confusing and misleading. This does not form part of the Local Authority Assessment.
- The Bat Surveys (X2) were undertaken after the site had been cleared and outside the optimum period for undertaking such surveys.
- Both surveys therefore do not account for the biodiversity loss as a result of site clearance and potential loss of habitat which has occurred.
- The proposals are contrary to Section 15.6.9 (Trees and Hedgerows) of the Development plan.

- The site clearance is contrary to Section 10.5.7 of the Plan and the Planning Authority/ An Bord Pleanála were not afforded an opportunity to assess the site in terms of the habitat/ ecological value.
- The clearance of the site is contrary to the Habitats Directive.

Planning Assessment

- The Local Authority Planners Assessment does not give any independent analysis of the revised proposals. No reasons for accepting the modifications are provided.

Clarification of Information in Specialist Reports

- There are a number of inconsistencies regarding the description of the development presented in the Sunlight Report, the Engineering Report and the Energy Report. As per the provisions of Section 132 of the Planning & Development Act, the Board should request the Applicant to confirm if these were errors which do not have any bearing on the assessment of the appropriateness of the scheme.
- As per Section 131 of the Act, any revised documentation submitted by the applicant should be recirculated to the parties.

Planning Conditions

- Planning Conditions which may be applied need to ensure no overlooking and that measures introduced to address overlooking be hardwired into relevant conditions and cannot be changed later.
- A condition should be attached that any change to the glazing and the hit and miss brickwork will require planning permission.
- A condition to allow for the provision of integrated bin storage. The location of such bin storage should ensure that they are not left on the proposed road as this would be very close to existing gardens.

Construction Impacts

- The relocation of the turning circle adjacent to Trident house is sought. Revised hours of Operation are requested. A construction period of 24 months appears to be a long period of disruption. Clarity is sought on the proposed duration of the construction phase.

Depreciation in Property Values

- The proposed development will likely damage property values.

Consent

- The mews lane is private not public. There is no public right of way over the lane. There is no consent for the applicant to access said lane. The west facing wall is a shared party wall. The application is misleading with respect to the issue of ownership.

6.2. Applicant Response

6.2.1. The Applicant's initial Response is in respect of the following Third-Party Appeal only:

- Brendan Burgess.

6.2.2. The following is a summary of the Applicant's Response

Heights

- The heights of the houses were reduced as much as possible. The minimum FFLs for habitable rooms, as per the submitted SSFRA is 3.95 metres OD. Any habitable accommodation has to be at least 1.81 metres above the site level as the site level is 2.14m AOD, i.e., to achieve the minimum recommended level of 3.95 metres.
- This is a major site constraint, and the design has been developed to respond to this issue.
- As per the Building Regulations and National Guidance for housing and apartments a habitable room must have a minimum ceiling height of 2.4 metres. The scheme is therefore compliant with National Housing Standards.
- The ground floor height of 2.9 metres includes a car port and a structural zone of 450 mm. This allows for 1 hour fire separation between the car port and the residential accommodation.
- Some further small reductions in height could be achieved but are not considered necessary having regard to the design of the infill house, the

positioning of the windows and the conclusions of the Daylight, Sunlight and Overshadowing Studies.

Distance to Boundary

- The 2 no. House Type A dwellings were moved back the maximum amount achievable whilst complying with development plan standards for private open space. The distance from the proposed houses to the boundary varies but the distance to the houses on Farney Drive is more consistent. The houses have been set back a further 1.2 metres from the pinch point to the east as per the site layout plan.

Road, Footpath, Tree Planting

- The road is required for vehicular access. The use of the space beneath the house for car parking is sensible. The number of car parking spaces complies with the development plan.
- The turning circle has been auto tracked for fire and refuse trucks and tested in the Transport Consultants Report. The Report demonstrates full compliance with Design Manual for Urban Roads and Streets (DMURS).
- The road is a shared driveway and is not busy.
- Planting is provided where possible along the boundary. The boundary wall will be 1.8 metres along its length thereby not allowing views into rear gardens.
- There are no windows less than 22 metres from the first-floor rear windows of the houses at Farney Park.
- A revised landscaping plan is submitted which allows for additional planting along the boundary. The Applicant confirms that this revised arrangement will not interfere with the traffic circulation system.
- A revised tree specification schedule is proposed, which includes a number of specimen trees, and improved screen planting.

Flood Risk

- Flooding is not increased on the subject site, see Engineering Report and SSFRA. The drainage system, soakaway and permeable paving has been designed for a 1:1,000-year AEP event as required.
- There will be no increased risk of flooding from the new development.
- Vulnerable areas are being placed on the upper floors.
- The Applicant acknowledges the site may flood.
- Measures to displace the flood waters to neighbouring sites are not proposed so there will be no increased risk to same.

6.3. Planning Authority Response

- The Planning Authority request the Board to uphold their decision. The Planning Department request that if permission is granted that the following condition(s) be applied:
 - A condition requiring payment of a Section 48 development contribution.
 - A condition requiring the payment of a bond.
 - A naming & numbering condition.

6.4. Observations

- 6.4.1. A total of 4 no. observations were received from 1. Orlaith Meehan (2 no. observations) and 2. John and Leah McKenna (2 no. observations).
- 6.4.2. The issues raised by the observers are covered in the grounds of appeal.

6.5. Further Responses

- 6.5.1. A Response was received from the Applicant in respect of the remaining third-party appeals. Most of the issues raised in the response have already been addressed in the previous Response from the Applicant. The remaining issues are summarised under the following headings:

Boundary Wall along Mews Lane:

- There is an established Right of Way along the laneway. The Applicants have use of this Right of Way. The status of the boundary wall as a party wall is disputed. The laneway is stated to be in the process of being purchased by a third party. The same third party has advised that the lane is in private ownership. The laneway is not in public ownership.

Site Clearance:

- A total of 16 no. trees were identified in the tree survey. 9 no. trees along the laneway were considered to be of poor condition. A dead tree was removed in addition to the clearance of undergrowth and rubble. The Ecological Survey found the habitat loss on site to comprise of species and habitats of low biodiversity importance. Existing trees on the lane will not be affected by the proposals. The laneway will not be used for construction access, storage or any construction activity. Applicant is willing to accept a condition as part of any grant of permission that an Arborist be retained to ensure best practice and that existing trees along the lane be protected.

Distance from House on Tritonville road:

- See the revised site plan drawing, ref. no. 101006. The first and second floor balconies were removed to overcome the concerns raised by the observers on Tritonville Road.

Widening of Vehicular Access/ Pedestrian Gates to Laneway:

- The scheme has been designed a DMURS compliant scheme. The widening of the access is in line with Dublin City Councils requirements. Each unit has an enclosed bin store. The pedestrian gates are not essential to the functioning of the homes on a daily basis, all servicing access etc is from the front of the houses.

Grounds of Appeal:

Houses are overbearing:

- The houses are lower than those on Tritonville Road, see the submitted Design Statement. Impacts are further reduced to the houses on Tritonville road with the omission of balconies and terraces and adequate separation distances are observed.

Rear Garden Depth – below minimum Development Plan Standards:

- Adequate separation distances between properties are achieved. This is supported in Section 5.11.3 of the Development Plan. Section 15.13.4 of the Development Plan relates to Backland Housing where a relaxation in rear garden length may be acceptable. The private open space for the 4 no. houses complies with Development Plan standards.

Community Amenity Space to Trident House

- Trident House Apartments were constructed in the 1980's without any private open space. The improvements permitted under planning reg. no. 4789/22, include the provision of 60 sqm communal open space and private terraces on the ground floor and together with the proposed scheme represent a high-quality residential environment for all residents.

Density

- The proposed density at c. 84 dwellings per hectare is within recommended development plan density standards for an 'outer suburban' area of between 60 to 120 units per hectare. Although a backland site the proposed development would not injure the amenity of property in the vicinity.

Validity of Application

- The Planning Authority deemed the development description to be acceptable. Site clearance works took place to enable a survey of the site. This included the removal of dead trees and the clearance of undergrowth. The felling of trees within 30 metres of a structure is generally exempt, as per the Forestry Act, 2014.

Impact on Residential Amenity

- Overlooking: There are no east facing windows less than 22 metres from existing house's windows and there are no windows less than 22 metres from the houses on Tritonville Road. There are therefore no overlooking issues.
- Height: The issue of Height and Massing is addressed in the Design Statement. The Height and scale are carefully designed to respect immediately established building heights on Farney Road and Tritonville Road. The height difference is not a substantive issue.
- Visual Impact: Additional planting can be provided along the boundary within the zone created by the reduction in depth of the houses.
- Existing Trees in Laneway: All trees in the laneway are 10 metres from the proposed houses.
- Access Road/ Parking: Surface water is proposed to be discharged via a new separate surface water sewer which will discharge to a new soakaway to the south of Trident House. The access road and hard landscaped areas are permeable paving. Bin truck will only access as far as the turning circle zone. All parking levels are as per the Development Plan standards and DMURS. The mews lane is not suitable for a bin truck and fire access without an adequate turning area. The lane is private, and the Applicants have a Right of Way over this.
- Sunlight/ Daylight: The proposed development is not anticipated to have adverse impacts to neighbouring dwellings and will not cause any loss of light to any adjoining properties. The Sunlight/ Daylight report confirms compliance with relevant standards and demonstrates a negligible impact on existing residential properties in terms of access to skylight, sunlight to gardens/ open spaces. The findings are that concerns in regard to overshadowing can be ruled out.
- Specialist Reports: Any minor inconsistencies in the specialist reports would not have any bearing on the assessment of the development.

- **Boundary Treatments:** There is no objection to the imposition by the Board of a stipulation to provide additional screen planting along the eastern site boundary.
- **External Lighting:** Lighting will be agreed with the Planning Authority as part of any compliance.
- **Construction Impacts:** A detailed Construction and Environmental Management Plan (CEMP) will be submitted as compliance to the Planning Authority.

6.5.2. The following 3 no. Responses were received on behalf of the following Appellants:

- Sarah McKeogh & Glenn Reynolds
- Cara Walsh & Stewart Atkinson
- Liz Gallagher

6.5.3. The said 3 no. responses are identical and relate to issues previously raised in grounds of appeal.

6.5.4. A Response was received on behalf of the Residents of Tritonville Road. The Response relates to issues previously raised in the grounds of appeal.

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 appeals, 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 and Layout
- Residential Amenities
- Traffic and Car Parking
- Flood Risk Potential

- Other issues
 - Appropriate Assessment
 - Premature Site Clearance/ Validity of the Planning Application
 - Ecological Impacts
 - Discrepancies in Specialist Reports
 - Construction Impacts
 - Devaluation of Property
 - Sufficient Legal Interest/ Consent
 - Right to Light

7.2. Zoning

- 7.2.1. The Appeal site is predominantly zoned Z1 – Sustainable Residential Neighbourhoods, the zoning objective for which is *‘to protect, provide and improve residential amenities’*. The balance of the lands to the rear (north) of the appeal site are zoned Z2 – Residential Neighbourhoods (Conservation Areas), the zoning objective for which is *‘to protect and/or improve the amenities of residential conservation areas.’* Residential use is permitted in principle on lands zoned Z1 and Z2, subject to assessment against normal planning considerations. These matters are discussed in turn below.
- 7.2.2. Section 14.6 of the Development Plan relates to Transitional Zone Areas. This is also discussed in further detail below.

7.3. Design and Layout

- *Site Context and Setting*

- 7.3.1. The subject appeal site is located on the eastern side of a mews lane to the rear of properties which face west onto Tritonville Road. The opinion of the Local Authority Planner that the site is unusual and that it could be considered both a mews site as well as an infill site, is noted. I do not consider the site to have the characteristics of a mews site associated with the adjacent properties to the west which face onto Tritonville road. The Board will note that most of the site is zoned Z1 and that the remaining balance at the northern end of the appeal site, together with surrounding

lands to the west, north-west and north and including the mews lane itself, are all zoned Z2. This in my opinion represents a distinction between the majority of the appeal site and surrounding lands, particularly the mews lane. In my view the site is both an infill site and a backland site and is not a mews site in the conventional sense.

- *Design, Height and Scale*

- 7.3.2. Having regard to the site context and setting, development plan guidance relating to infill development (Section 15.5.2) and backland housing (Section 15.13.4) are, in my view, of primary relevance to the subject proposals.
- 7.3.3. A maximum reduced ridge height of 10.45 metres is proposed for both blocks (Ridge Level 12.64 metres AOD). The surrounding properties at Tritonville Road, which are the highest structures in the immediate locality, are shown to have comparable ridge levels. The dwellings to the east at no's 1, 3, 5 & 7 Farney park are shown to have lower ridge levels of 10.95 metres AOD, i.e., 1.69 metres lower to that of the subject proposals. The adjacent apartment building to the south, Trident House, has a flat roof and is shown to have a parapet level of 10.96 metres AOD. The proposed dwellings have pitched roofs and lower eaves levels to that of Trident house.
- 7.3.4. Permission was previously refused for a dwelling on the adjacent site to the immediate north, as appeal reference no. 212775 (LA Reg. Ref. 5396/04) refers. In that said case and although the height of the dwelling is stated in the Inspectors Report to have measured 8.25 metres, it is noted that other considerations included the substandard access arrangements, the scale and bulk of the two storey over basement dwelling, proximity to lateral boundaries and the impacts of the proposal on existing significant mature trees.
- 7.3.5. The subject appeal site is significantly larger and is more open and exposed compared to the site to the immediate north. In addition, the configuration of the site and distances from surrounding properties allows a greater degree of design flexibility, particularly in relation to the issue of height.
- 7.3.6. The subject dwellings are orientated on a general east west axis in keeping with the established building orientations on the adjacent lands to the east and west and, in my opinion, serve to suitably address the challenging site configuration and its backland setting.

- 7.3.7. The choice of building materials, in my opinion, have also positively interpreted the existing design and established architectural features of the area. The proportions of the buildings, particularly the narrow building depths are also, in my opinion, reflective of the established wider architectural context.
- 7.3.8. It is noted that the appeal site is within a transitional zone between 2 no. zonings, i.e., Z1 (Sustainable Residential Neighbourhoods) and Z2 (Residential Neighbourhoods (Conservation Areas)). The vast majority of the site is zoned Z1 with the balance at the northern end zoned Z2, estimated to be approximately 11% of the overall site area. Having regard to recommendations contained in Section 14.6 of the Plan which relates to Transitional Zones, I am satisfied that the proposals do not represent an abrupt transition in scale and/ or land use, are not detrimental to the amenities of an environmentally sensitive zone and are therefore acceptable.
- 7.3.9. Having regard to the location and context of the site and, in particular, the backland setting and noting the separation distances observed, I am satisfied that the design, height and scale of the proposed structures are appropriate in this instance. I am further satisfied that the development does not contravene the Z1 and Z2 zoning objectives for the site.
- *Separation Distances*
- 7.3.10. The proposed separation distances are shown on the proposed site layout plan, drawing ref. 101006, submitted in response to the Request for Further Information.
- 7.3.11. 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.
- 7.3.12. I am satisfied that the proposed development, as amended in response to further information, adheres to the above recommendations and is therefore acceptable in terms of proposed separation distances.

- *Overbearing*

7.3.13. I note the initial comments of the Local Authority in respect of the issue of Overbearance and Overlooking and the guidance provided in Section 15.9.18 of the Plan. Having regard to the separation distances observed, together with the design changes introduced at further information stage, I am satisfied that the proposed development, as presented, is not overbearing and can be successfully assimilated into the subject site.

- *Visual Amenity*

7.3.14. The planning application as initially presented was accompanied by Visual Impact Photomontages. Updated Verified Views and 1 no. additional Verified View were presented in response to the Request for Further Information.

7.3.15. I have reviewed the submitted photomontages and I note the separation distances observed, as per revised drawing ref. no. 101006. I further note the backland nature of the site, the character of the area, the established building heights in the vicinity, the context of the proposed development, the central location of the dwellings within the site, the site configuration and the relationship of the site to its surroundings as shown in the locational context map presented in Section 2.1 of the Architectural Design Statement. I am satisfied, subject to additional screen planting along the eastern site boundary and appropriate boundary treatments, that the proposed development, as presented, is acceptable and will not serve to impact negatively upon the established visual amenities of the area.

- *Density/ Overdevelopment*

7.3.16. The proposed residential density is stated to be approximately 84 units per hectare, and this includes the existing 12 no. apartments at Trident House. The site is in an outer suburb where a density of 60 to 120 units per hectare is recommended in Appendix 3 of the Development Plan.

7.3.17. As per the Sustainable Residential Development and Compact Settlement Guidelines, 2024, the site is, in my view, located within a City–Urban Neighbourhood where, as set out in Table 3.1, it is a policy and objective of the Guidelines that residential densities in the range of 50 dph to 250 dph (net) shall generally be applied in the urban neighbourhoods of Dublin and Cork.

7.3.18. Indicative plot ratio and site coverage standards are set out in Table 2 of Appendix 3 of the Plan. For an Outer Employment and Residential Area an indicative plot ratio of between 1.0 and 2.5 and an indicative site coverage of between 45 – 60% are recommended. I would agree with the assessment of the Local Authority that the appeal site is located within a Residential Area for the purposes of indicative plot and site coverage. The proposals which provide a plot ratio of 0.7 and a site coverage of 20.8% are below these recommended standards.

7.3.19. I am however satisfied, owing to the backland setting of the site and the established character of the area, that a lower plot ratio and site coverage is acceptable in this instance.

7.3.20. I am further satisfied that the proposed residential density of 84 units is appropriate and is within acceptable density ranges. I do not accept the opinions expressed by the third parties that the proposals represent an overdevelopment of the site.

- *Private Open Space*

7.3.21. The proposals in terms of the quantum of Private Open Space are broadly consistent with recommendations contained in the Development Plan and are therefore, in my opinion, acceptable.

- *Conclusion in relation to Design and Layout*

7.3.22. I am satisfied that the design and layout of the proposed development is in keeping with the established character of the area and is therefore acceptable in accordance with the proper planning and sustainable development of the area.

7.4. Residential Amenities

- *Overlooking*

7.4.1. The Applicant submitted revised design proposals in response to point no. 1 of the Request for Further Information which included, inter alia, a revised house design and layout for House Type A, an increased set back from Farney Park properties, amendments to the rear of each dwelling including the omission of Juliette balconies at first floor level/ replacement with a window, omission of roof terrace at first floor level.

7.4.2. I am satisfied that the revised proposals, as presented, are acceptable and serve to suitably address the concerns of third parties in terms of overlooking of existing dwellings. I am further satisfied that the revised proposals, together with the separation distances observed and the layout and positioning of the existing properties along Tritonville Road, serve to suitably address any perceived loss of privacy for rear amenity spaces of said dwellings.

- *Sunlight and Daylight/ Artificial Lighting*

7.4.3. A Daylight and Sunlight Assessment was lodged as part of the planning application documentation. The Report finds that the proposed development will have a negligible impact on surrounding buildings with respect to access to skylight, access to sunlight and sunlight to gardens/ open spaces. Section 5.0 of the Assessment includes a Virtual Sky Component (VSC) Analysis of existing buildings, an appraisal of the impact of the proposed development on Sunlight to Neighbouring Gardens and an analysis of Daylight and Sunlight for the proposed development as well as an analysis of Sunlight to the Proposed Open Spaces.

7.4.4. As per the findings set out in Tables 6 to 21 which primarily relate to house no's 1, 3, 5, 7, 9, 11 and 13 Farney Park, no's 50 to 56 and 64 to 66 Claremont Road and no's 122 to 124, 126 to 132, 134 to 138 and 140 to 144 Tritonville Road, all dwellings exceed the recommendations contained in the BRE Guide. In the case of the existing Trident House Apartments, which are proposed to be modernised under planning reg. ref. no. 2789/22, the Applicant acknowledges there will be a slight loss of skylight to the ground floor windows. Table 21 shows the increase in available light as a result of the proposed works to Trident House. The findings demonstrate a VSC of above 23% for all windows which is adequate. I would agree with the Applicant that the results show the proposed development will have a minor adverse impact on skylight to the neighbouring dwellings. This, in my opinion, is acceptable.

7.4.5. Section 5.3 relates to Impact on Sunlight to Neighbouring Gardens and finds that more than 50% of each of the surrounding gardens tested receives a minimum of 2hrs of sunlight on the relevant date of 21st March both before and after the proposed development. I would agree with the Applicant that, based on the results, and as a result of the proposed development, there will be a negligible impact on sunlight to the each of the surrounding gardens tested.

- 7.4.6. In respect of the proposed development, I would agree with the findings of the Applicant that the results shown that all rooms tested either meet or exceed the BRE's minimum recommendations for internal daylight provision and sunlight in dwellings and sunlight to proposed amenity spaces. I am satisfied that the Applicant's Assessment is robust and that the development has been designed with due consideration for sunlight and daylight and meets the recommendations as set out in the BRE Guide – BR 209 '*Site Layout Planning for Daylight and Sunlight, A guide to good practice (2022)*.' Further commentary in respect of the issues of Daylight and Sunlight are provided in the Applicant's Response to the Third-Party Appeals.
- 7.4.7. The concerns of the Third Parties in relation to the issues of Sunlight and Daylight are noted. I do not accept that the loss of sunlight to windows has not been assessed.
- 7.4.8. The concerns of the Third Parties in relation to the issue of Artificial Lighting are noted. As per normal practice and in the event of a Grant of permission being issued, the final details of all Artificial Lighting can be agreed with the Local Authority prior to the commencement of any work on site. An appropriate condition to this effect can be attached.
- 7.5. Traffic and Car Parking
- 7.5.1. As per Section 5.3.4 of the Sustainable Residential Development and Compact Settlement Guidelines, 2024, including SPPR 3, which relates to Car Parking – Quantum, Form and Location, the subject appeal site is, in my opinion, located within an urban neighbourhood where 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.
- 7.5.2. The appeal site is approximately 1 km walking distance from Sandymount Dart Station via Claremont Road, Gilford Road and Sandymount Avenue and within 597 metres of the planned Bus Connects Belfield/Blackrock to City Centre Core Bus Corridor Scheme (Case. Ref. No. ABP-313509-22) via Serpentine Avenue. The site therefore, as well as being located in an urban neighbourhood, is also located in an Accessible location as defined in Table 3.8 of the Guidelines. Given that the Specific Planning Policy Requirement is to minimise, substantially reduced or wholly

eliminate car-parking provision, it is my opinion that a maximum car parking standard of 1 space per dwelling should be applied. The proposed development, as presented, satisfies this maximum standard of 1 space per dwelling. Car parking is proposed in the form of a Car Port to the side each dwelling.

7.5.3. The internal access road is, in my view, positioned in the optimum location to facilitate vehicular access to the 4 no. dwellings. A vehicular access route to the rear of Trident House already exists to the side (east) of the site. The proximity of Trident House to the western site boundary does not facilitate the provision of an access road at that location within the site confines. The access road is not shown to extend to the northern site boundary and does not facilitate vehicular access to the lands to the north. In the event of a Grant of Planning Permission being considered by the Board, a condition could be attached which stipulates that any such future vehicular access to the lands to the north be the subject of a separate planning application.

7.5.4. I am satisfied that the proposed internal layout is consistent with the principles of DMURS.

7.5.5. The issue of compliance with Building Regulations will be evaluated under a separate legal code and thus need not concern the Board for the purposes of this appeal.

7.6. Flood Risk Potential

7.6.1. The Applicant submitted a Site-Specific Flood Risk Assessment (SSFRA) as part of the Planning Application documentation. The SSFRA notes the primary sources of flooding to the site are coastal and fluvial, with Flood Zones A and B confirmed as being present within the site. The Applicant finds that in order to protect the proposed residential units against 0.5% AEP MRFS, the minimum recommended finished floor level for the said residential units is 3.95 metres OD, which incorporates a 300 mm freeboard.

7.6.2. The Applicants proposals also include the installation of new stormwater infrastructure to the rear of the site and a soakaway for the disposal of rainfall-run off generated on hardstanding areas. The SSFRA has also demonstrated there will be no increase in potential flood risk to off-site receptors including adjacent third-party properties.

7.6.3. In addition to the recommended minimum residential floor levels further design mitigation measures include the positioning of electrical services above the IWCSS current 0.5% AEP tidal level and the attachment of non-return valves to the proposed foul effluent pipes. The Applicant notes that the on-site stormwater infrastructure is not connected to the mains network. In respect of access and egress for emergency vehicles, the Applicant notes the emergency vehicle site access flood management plan will be covered as part of the Dublin Coastal Flooding Protection Plan (DCFPP) and that emergency pedestrian access and egress to and from all residential houses will be to the southern part of the site and onto Claremont Road. I note the Local Authority Drainage Department raised no objection to the proposed development. I am satisfied with the provisions of the Site-Specific Flood Risk Assessment.

7.7. Other Matters

- *Appropriate Assessment*

7.7.1. The application is accompanied by an Appropriate Assessment Screening Report the findings of which conclude the development, either alone or in combination with other plans and projects, poses no risk of significant likely effects on Natura 2000 sites and, therefore, does not require progression to Stage 2 Appropriate Assessment.

7.7.2. 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.

- *Premature Site Clearance/ Validity of the Planning Application*

7.7.3. A number of trees were removed as part of site clearance works. I note the stated general poor condition of the 16 no. trees identified on the site as per the Arboricultural Assessment/ Tree Survey, see Drawing No. TTR1001.101. As per the tree categories set out in Section 5 of the Assessment, the vast majority of the trees surveyed (93.75% or 15 no. trees), within the site boundary, are identified as Category C with the balance (1 no. tree) identified as Category U. It is noted from the survey that none of the surveyed trees on the site are of high value or quality and that the majority of trees within the site are of very low value. The survey indicates that such trees should be removed for reasons of sound arboricultural management.

I am satisfied that the applicant has suitably justified the removal of trees from the subject site.

7.7.4. It is noted that site clearance activities took place prior to the lodgement of the application. It is unclear as to whether such site clearance activities fall within the definition of 'development', as described in Section 3 (1) of the Planning and Development Act, 2000 to 2023. In the absence of any definitive information to the contrary, I am satisfied that the said site clearance activities may not have required the benefit of planning permission. Having regard to same, I am satisfied as to the validity of the application.

- *Discrepancies in Specialist Reports*

7.7.5. I am satisfied that the highlighted discrepancies in Specialist Reports do not have a bearing on the assessment of the development.

- *Ecological Impacts*

7.7.6. I note the concerns of the Third Parties in relation to the timing of the surveys, post site clearance, and the presence of trees shown in the Tree Survey. I also note the low ecological value of the lands, the lack of habitats of conservation and the lack of bat activity on the site and the stated relatively low importance of the site to the local bat population. I am satisfied that the applicant has suitably appraised and addressed the potential Ecological Impacts of the proposed development, including the issue of Bats.

- *Construction Impacts*

7.7.7. The application is accompanied by a preliminary Demolition, Construction & Waste Management Plan. As is standard practice for development proposals of this kind and in the event of a Grant of permission being issued, a condition relating to the lodgement of a Construction and Environmental Management Plan (CEMP) would typically be applied. I am satisfied that the construction impacts raised can be suitably addressed by way of condition.

- *Devaluation of Property*

7.7.8. 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.

- *Sufficient Legal Interest/ Consent*

7.7.9. In terms of 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.

- *Right to Light*

7.7.10. As the issue of determining rights to light is a matter for the Courts, I do not consider that the Board is in a position to draw any conclusions in relation to the matters raised.

- *Part V*

7.7.11. The proposed development, as presented, is subject to Part V of the Planning and Development Act, 2000 to 2023 relating to the provision of Social and Affordable Housing. An appropriate condition in relation to Part V should therefore be attached in the event of the Grant of Permission being issued.

8.0 Recommendation

8.1. I recommend that permission be GRANTED for the following reasons and considerations and subject to the following conditions.

9.0 Reasons and Considerations

9.1.1. Having regard to the Z1 and Z2 zoning of the lands, the provisions of the Dublin City Development Plan 2022 - 2028 and the design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would comply with the

provisions of the Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the Planning Authority on the 4th May 2023, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interests of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

3. Prior to the commencement of development, the Applicant shall submit the following for the written agreement of the Planning Authority:
 - a) A revised car parking layout showing 2 no. car parking spaces including one accessible space to the front and 2 no. car parking spaces and 1 no. motorcycle space to the rear of Trident House. The revised parking layout shall detail a pedestrian pathway from the shared surface access road to the pedestrian entrance of Trident House.
 - b) All car parking spaces shall be permanently allocated to the proposed use and shall not be sold, rented or otherwise sub- let or leased to other parties. A minimum 50% of spaces shall be provided with electrical charging equipment and 100% of parking spaces shall be ducted to facilitate future cabling to serve charging points for Electric Vehicles.
 - c) A minimum 12no. long term cycle parking and 2no. short term cycle parking spaces including 1 no. cargo bike spaces shall be provided for residents and visitors of Trident House. Revised plans detailing cycle parking for Trident House shall be submitted to the planning authority for written agreement prior to the commencement of the development.

d) The kerb and footpath to the front of the development shall be suitably
dished, raised and upgraded, to the satisfaction of the Planning Authority.

Reason: In the interest of traffic safety and orderly development.

4. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.

Reason: In the interest of public health and to ensure a proper standard of development.

5. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

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

Reason: In the interests of public safety and residential amenity

7. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule 2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

Reason: In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process

8. (a) A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the eastern site boundary, consisting predominantly of trees, shrubs and hedging of indigenous species, capable of growing to the height of 2 metres. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial commencement of construction works.

(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development, in the interest of visual amenity.

9. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only. The brick colour to be used shall be the same as that used in the adjoining residential area.

Reason: In the interest of visual amenity.

10. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate/street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the

shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

11. Pre-development testing

- a) The applicant is required to engage the services of a suitably qualified archaeologist (licensed under the National Monuments Act 1930-2004) to carry out pre- development testing at the site where ground disturbance is to take place. No sub surface work shall be undertaken in the absence of the archaeologist without his / her express consent.
- b) The archaeologist is required to notify the National Monuments Service in writing at least four weeks prior to the commencement of site preparations. This will allow the archaeologist sufficient time to obtain a license to carry out the work.
- c) The archaeologist shall carry out any relevant documentary research and may excavate test trenches at locations chosen by the archaeologist, having consulted the proposed development plans.
- d) Having completed the work, the archaeologist shall submit a written report to the Planning Authority and to the National Monuments Service for consideration
- e) Where archaeological material is shown to be present, avoidance, preservation in situ, preservation by record (excavation) and / or monitoring may be required and the National Monuments Service will advise the Applicant / Developer with regard to these matters.
- f) No site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the Planning Authority in consultation with the National Monuments Service.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

12. Public lighting shall be provided in accordance with a scheme, [which shall include lighting along pedestrian routes through open spaces] details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

13. All mitigation measures proposed in the Ecological Impact Assessment Report and the Bat Survey shall be implemented in full to the satisfaction of the Planning Authority.

Reason: In the interests of natural heritage protection.

14. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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

security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

Frank O'Donnell
Planning Inspector

25th March 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317417-23			
Proposed Development Summary	Demolition of outbuilding and 2 garden walls to the rear of Trident House apartments. Construction of 4 houses and all associated site works.			
Development Address	TriHouse, 60 Claremont Road, 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	
2. 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)	Conclusion
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 – EIA – Screening Determination

A. CASE DETAILS		
An Bord Pleanála Case Reference	ABP-317417-23	
Development Summary	Demolition of outbuilding and 2 garden walls to the rear of Trident House apartments. Construction of 4 houses and all associated site works.	
	Yes / No / N/A	
1. Was a Screening Determination carried out by the PA?	Yes	On the basis of the information submitted on the file, which the Planning Authority considered adequate in order to issue a screening determination, the Planning Authority consider it is reasonable to conclude that there is no real likelihood of significant effects on the environment arising from the proposed development and an environmental impact assessment is not required.
2. Is an IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
3. Has Schedule 7A information been submitted?	Yes	The applicant has submitted Schedule 7A information in the Environmental Impact Assessment Screening Report.
4. Has an AA screening report or NIS been submitted?	Yes	An Appropriate Assessment Screening Report was submitted with the application.
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried	Yes	SEA and AA were undertaken in respect of the Dublin City Development Plan 2022-2028.

out pursuant to other relevant Directives – for example SEA		
B. EXAMINATION	<p>Where relevant, briefly describe the characteristics of impacts (ie the nature and extent) and any Mitigation Measures proposed to avoid or prevent a significant effect</p> <p>(having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</p>	<p>Is this likely to result in significant effects on the environment?</p> <p>Yes/ No/ Uncertain</p>
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)		
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	There is a clear consistency in the nature and scale of development in the surrounding area, primarily comprising low to mid rise residential buildings of a similar scale located immediately to the south, east and west of the site. The proposed development would provide development in an inner urban location that is not regarded as being of a scale or character significantly at odds with the immediate surrounding pattern of development.	No
1.2 Will construction, operation, decommissioning or demolition works causing physical changes to the locality (topography, land use, waterbodies)?	The proposed residential development has been designed to address the site topography resulting in minimal change in the locality, with standard measures to address potential impacts on surface water and groundwaters in the locality.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Construction materials will be typical for an urban development of this nature and scale.	No

<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances which are typical for construction sites. Any impacts would be local and temporary in nature and the implementation of the standard construction practice measures outlined in the Construction Management Plan and Operational Waste Management Plan would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>
<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances and give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature, and with the implementation of the standard measures outlined in the Construction Environmental Management Plan would satisfactorily mitigate the potential impacts. Operational waste would be managed through an Operational Waste Management Plan. Other operational impacts in this regard are not anticipated to be significant.</p>	<p>No</p>
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>Operation of the standard measures listed in the Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction and operation. The operational development will connect to mains services and discharge surface waters only after passing through fuel interceptors and SUDS. Surface water drainage will be separate to foul services within the site as required by Dublin City Council.</p>	<p>No</p>

1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by the operation of standard measures listed in the Construction Environmental Management Plan.	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the application of standard measures within the Construction Environmental Management Plan would satisfactorily address potential risks on human health, including dust monitoring, suppression, and abatement. No significant operational impacts are anticipated for the piped water supplies in the area.	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No significant risk is predicted having regard to the nature and scale of the development. Any risk arising from demolition and construction will be localised and temporary in nature. The site is not at risk of flooding.	No
1.10 Will the project affect the social environment (population, employment)	Development of this site would result in an increase in the residential population in this area. The development would provide increased residential floorspace.	No
1.11 Is the project part of a wider large-scale change that could result in cumulative effects on the environment?	No	No
2. Location of proposed development		
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:	The nearest European sites are the South Dublin Bay SAC (000210) and South Dublin Bay and River Tolka Estuary SPA (004024) 0.5 km to the east. The nearest watercourse to the	No

<ul style="list-style-type: none"> a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA c) Designated Nature Reserve d) Designated refuge for flora or fauna e) Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	<p>subject site is the River Dodder, located 350m to the west of the site boundary. There is no hydrological connection from the subject site to this watercourse. The proposed development would not result in significant impacts to any protected sites, including those downstream.</p>	
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	<p>The proposed development would not result in significant impacts to protected, important or sensitive species.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>The site is partially within a Conservation Area however there are no Protected Structures within the general vicinity and no significant effects are anticipated in this regard. There are no monuments listed in the Record of Monuments and Places (RMP) or in the Site and Monuments Record (SMR) on the site. Similarly, there is no record of sites listed in the Dublin City Industrial Heritage Record (DCIHR) within or in the immediate environs of the site. Suitable conditions regarding archaeological survey would appropriately mitigate any risk.</p>	<p>No</p>
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No such features are in this inner urban location, with the site separated from agricultural areas by intervening urban lands and road infrastructure.</p>	<p>No</p>
<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>The development proposes to construct residential living space at first floor level and above, at a finished floor level of 3.95 metres, which incorporates a 300 mm freeboard. The proposed</p>	<p>No</p>

	works would include installation of new stormwater infrastructure to the rear and a soakaway for disposal of rainfall-runoff generated on hardstanding areas. The development would not increase potential flood risk to off-site receptors including adjacent third-party properties.	
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	No
2.7 Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	The site is served by a local road network. There are sustainable transport options available for future residents. No significant contribution to traffic congestion is anticipated to arise from the proposed development.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	No negative impact anticipated as a result of the proposal.	No
3. Any other factors that should be considered which could lead to environmental impacts		
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No existing or permitted developments have been identified in the immediate vicinity that would give rise to significant cumulative environmental effects with the subject project.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No
3.3 Are there any other relevant considerations?	No	No
C. CONCLUSION		
No real likelihood of significant effects on the environment.	Agreed	Yes
		EIAR Not Required

Real likelihood of significant effects on the environment.	<input type="checkbox"/>	EIAR Required
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D. MAIN REASONS AND CONSIDERATIONS

Having regard to

- The nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2023;
- The location of the proposed residential development on lands zoned within the Dublin City Development Plan 2022-2028 as Z1: Sustainable Residential Neighbourhoods, the stated objective of which is to protect, provide and improve residential amenities; and Z2: Residential Neighbourhoods (Conservation Areas) with a stated objective to protect and/or improve the amenities of residential conservation areas where residential is a use that is classed as Permitted in Principle; and the results of the Strategic Environmental Assessment of the Development Plan;
- The nature of the existing site and the pattern of development in the surrounding area;
- The availability of mains water and wastewater services to serve the proposed development;
- The location of the development outside of any sensitive location specified in Article 109(4)(a)(v)(I-VII) of the Planning and Development Regulations 2001, as revised;
- The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003);

- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as revised, and;
- The features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the preliminary Construction Environmental Management Plan. It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not, therefore, be required.