



An
Coimisiún
Pleanála

Inspector's Report PL-500156-DS

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| Development | Demolishing existing single storey side extension, and construction new 3 storey detached 6 bedroom dwelling, with 2 balconies to the front, new vehicular access, associated site works. |
| Location | 29 Herberton Park, Rialto, Dublin 8, D08 VEF2 |
| Planning Authority | Dublin City Council South |
| Planning Authority Reg. Ref. | WEB2441/25 |
| Applicant(s) | Stuart Stein |
| Type of Application | Permission |
| Planning Authority Decision | Refuse Permission |
| Type of Appeal | First Party Normal Planning Appeal |
| Appellant(s) | Stuart Stein |
| Observer(s) | None |
| Date of Site Inspection | 2 nd March 2026 |

Inspector

Patricia Byrne

1.0 Site Location and Description

- 1.1. The appeal site, located at No. 29 Herberton Park, Rialto Dublin 8, relates to a two-storey, semi-detached dwelling house positioned at the eastern end of this residential street, lying south of South Circular Road and north of the Grand Canal. New Dolphin Park residential complex lies to the immediate south, beyond which lies the established Dolphin House flats complex. Rialto parish centre located on South Circular Road, abuts the site to its northern boundary, while to the northwest lies the storage yard of a builder's providers/plant hire business. A large shed on the same property backs onto the rear garden of No. 27 Herberton Park.
- 1.2. The two-storey house retains its hipped roof profile and has been extended by a flat roofed single-storey side extension. The adjoining dwelling has also been extended with the roof amended, replacing the hipped roof with a gable end.
- 1.3. In curtilage parking occurs to the front of the house.
- 1.4. New Dolphin Park comprises a contemporary apartment scheme in three and four storey format, with Block B lying immediately adjacent No. 31 Herberton Park. A connecting road off the former turning circle provides access to the complex from Herberton Road.
- 1.5. With the exception of New Dolphin Park, residential development in the immediate vicinity comprises two-storey terraces and semi-detached units, similar in architectural design to the appeal property.

2.0 Proposed Development

- 2.1. An application to Dublin City Council under Reg. Reg. WEB2441/25 sought permission for the following works:
 - Demolition of existing single storey side extension.
 - Construction of new three-storey detached 6 no. bedroom dwelling house with 2 no. balconies to the front.
 - New vehicular access and

- Associated site works.
- 2.2. The single storey extension proposed for demolition extends to a stated 42sq.m. while the gross floor area of the proposed dwelling is given as 207 sq.m.
 - 2.3. The proposal will connect to existing mains water and foul sewer. It is indicated that a soakpit will facilitate surface water disposal.
 - 2.4. The stated area of the site is 0.016Ha.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Dublin City Council by Order dated 3rd of October 2025 refused permission for the development for the reason set out below:

'Having regard to the height, scale, massing, and architectural design of the proposed three-storey dwelling on this constrained infill site, it is considered that the development would result in an insensitive and visually incongruous addition to the streetscape. The proposal would fail to integrate with the established character of the area and would appear overbearing in the context of adjoining properties. Furthermore, the positioning and orientation of windows and location of private open space raise concerns regarding the quality of residential amenity for future occupants, particularly in relation to daylight access to key habitable rooms and quality of open space. The development would therefore by itself and by the precedent it would set for similar forms of inappropriate development in the vicinity, be contrary to the proper planning and sustainable development of the area'.

In considering the application, the Planning Authority sought Further Information in relation to 2no. items. The first item raised concerns in relation to design and scale of the proposal and its impact on surrounding development. Matters to be addressed related to balconies, finishing materials, separation between internal facing windows, private open space, as well as bin and bicycle storage. Clarity was also sought in

relation to the nature of the residential use under consideration, and confirmation that the proposal did not constitute shared accommodation / a co-living development. The second item of Further Information expressed concerns as to the ability of the site to accommodate on-site car parking and in relation to the proposal to provide two vehicular entrances to serve 1 no. shared parking space. Revised plans were requested.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planning report of the planning authority dated 13th August 2025, referred to supporting policy within the Dublin City Development Plan 2022-2028 and to national planning guidance. The report raised concerns in relation to the format of the development, suggesting the design provided for co-living accommodation rather than a single dwelling unit. Concerns were also raised in relation the design, amenity, scale and material finishes proposed, as well as the achievement of minimum floor areas. A further report dated 2nd October 2025 was prepared following the submission of a response to Further Information. While referring to the acceptability in principle for a dwelling on site, the proposal was deemed unsuitable in terms of its height, scale and massing. The architectural design was deemed by the planning authority to be inappropriate, resulting in an insensitive imbalance to the streetscape and appearing visually incongruous within the surrounding built environment. The report also raised concerns regarding the quality of residential amenity afforded future residents given the positioning of windows and levels of daylight ingress. The report suggested that a smaller dwelling, with a design in keeping with the scale and character of adjoining properties could be accommodated. A recommendation was made to refuse permission.

3.2.2. Other Technical Reports

3.2.2.1. Engineering Department-Drainage Division

In a report dated 7th July 2025, the Division raised no objections, subject to compliance with a number of standard conditions.

3.2.2.2. Transportation Planning Division

The initial report dated 31st July 2025 noted the intent to create a new vehicular entrance and determined there was a lack of clarity in relation to the ability of the site to cater for the existing or proposed in-curtilage parking arrangements. The report also noted that a shared in-curtilage parking space was to be accessed by two vehicular entrances which was not deemed acceptable. Revised plans demonstrating that in-curtilage parking spaces (extending to a minimum of 3m by 5m) could be provided for both vehicular entrances were requested, together with details of cycle parking and bin storage. A further report dated 23rd September 2025 prepared on receipt of a response to the Further Information request agreed with the amended proposals to omit on-site parking and to instead rely on public transport. Provision of cycle parking spaces in the front garden area was deemed acceptable. No further objections were raised, and the report recommended conditions in the event of a grant of planning permission, including a condition reducing the width of the vehicular entrance to a maximum of 1.5m to prevent vehicular access.

3.3. **Prescribed Bodies**

None on file

3.4. **Third Party Observations**

None received by the planning authority.

4.0 **Planning History**

SHEC Ref 0185/25

Social Housing Exemption Certificate (SHEC) awarded under Section 97 of the Planning and Development Act 2000, as amended.

Decision date 30th May 2025.

Reg. Ref. 0650/96

Permission GRANTED for two bedrooms and a bathroom extension at first floor level.

Decision date: 30th May 1996.

Adjacent Site

Reg. Ref. WEB 1773/22

Retention Permission GRANTED for the construction of a 1st floor over previously approved single storey extension to side (Reg Ref. 2836/20) and for part pitched roof and part flat roof over first floor at 27 Herberton Park.

Third Party Appeal under ABP-315082-22 was withdrawn.

Reg. Ref. 2836/20

Permission GRANTED for a single storey bedroom extension to side of No. 27 Herberton Park.

5.0 Policy Context

5.1. Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities.

- Policy guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development.
- Section 5.3 relates to Standards for Housing and seeks to enable greater innovation, and a graduated and flexible approach to the application of residential development standards across all housing types. Identifies a need to review and update standards in relation to separation between dwellings, private, semi-private and public open space provision, car parking and cycle parking.
- SPPR1 Separation distances.
- SPPR 2 Minimum private open space standards for houses.

- SPPR 3 Car parking.
- SPPR 4 Cycle parking and storage.

5.2. **Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities**

- Provides guidance to identify principles and criteria important in the design of housing and highlights specific design features of relevance.
- Section 5 - Dwelling Design. Provides specific design guidance in relation to dwelling units, setting out in Table 5.1 Space Provision and Room Sizes for Typical Dwellings.

5.3. **Dublin City Development Plan 2022-2028**

5.3.1. The Dublin City Development Plan is the operative Development Plan for the area and came into effect on the 14th December 2022.

5.3.2. **Volume 1: Written Statement**

Chapter 4 Shape and Structure of the City

- **Policy SC9 Key Urban Villages, Urban Villages and Neighbourhood Centres**

Seeks *inter alia* to support the sustainable consolidation of the city and align with the principles of the 15 minute city.

- **Policy SC11 Compact Growth**

Chapter 5 Quality Housing and Sustainable Neighbourhoods

- **Policy QHSN2 National Guidelines**
- **Policy QHSN6 Urban Consolidation**

Chapter 14 Land Use Zoning

- The appeal site is zoned under Zone Z1 Sustainable Residential Neighbourhoods where the objective seeks '*to protect, provide and improve residential amenities*'.

- Residential is listed as a permitted use.

Chapter 15 Development Standards

Section 15.5.2 Infill Development

Section 15.11 House Developments

Section 15.11.3 Private Open Space

Section 15.13.3 Infill/Side Garden Housing Developments

Section 15.13. 4 Backland Housing

5.3.3. Volume 2: Appendices

Appendix 5 Transport and Mobility Technical Requirements:

- **Section 4.0 Car Parking Standards.**

Dublin City Council is divided into three areas for the purposes of parking control (Map J). The appeal site is located in Zone 1.

- **Table 1 Bicycle Parking Standards for Various Land Uses.**

In all zones, a residential dwelling requires 1 no. long term bicycle parking space and 1 no. short stay/visitor per 5 no. dwellings.

- **Table 2 Maximum Car Parking Standards for Various land Uses**

Specifies the requisite level of on-site parking to be provided for residents, staff and visitors for various types of development. Section 4.0 states that these car parking standards *'shall be generally regarded as the maximum parking provision and parking provision in excess of these maximum standards shall only be permitted in exceptional circumstances e.g. boundary areas, or where necessary for the sustainable development of a regeneration area'*.

- Table 2 specifies 0.5 no. spaces per dwelling in Zone 1.

5.3.4. Volume 3: Zoning Maps

- Map Set E illustrates the appeal site within Zone Z1 'Sustainable Residential Neighbourhoods' where the objective seeks *'to protect, provide and improve residential amenities'*. Residential development is permitted in principle.

- Lands zoned Z14 Strategic Development and Regeneration Areas (SDRA's) are located immediately to the south. This comprises SDRA 12 Dolphin House illustrated under Figure 13-15 in Volume 1 of the Plan. The Dolphin Estate is a large local authority apartment complex on c. 7.5Ha addressing Dolphins Barn to the east and the Grand Canal to the south. Guiding Principles to achieve the regeneration of SDRA12 are set out under Section 13.14 Chapter 13 Volume 1 of the Plan.
- The Grand Canal is denoted as a Conservation Area on Map E.

5.4. Natural Heritage Designations

South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) c. 5.5km

North Bull Island SPA (Site Code 004006) c.8.2km

North West Irish Sea SPA (Site Code 004236) c. 10km

Dalkey Islands SPA (Site Code 004172) c. 14.8km

South Dublin Bay SAC (Site Code 000210) c. 5.5km

Rockabill to Dalkey Island SAC (Site Code 003000) c.13.7km

North Dublin Bay SAC (Site Code 000206) c. 8.2km

Grand Canal pNHA (Site Code 002104) 0.15km

Royal Canal pNHA (Site Code 002103) 4.2km

South Dublin Bay pNHA (Site Code 000210) 13.7km

5.5. EIA Screening

The proposed development has been subject to preliminary examination for environmental impact assessment (Refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A First Party appeal against the decision of Dublin City Council, made on the 3rd of October 2025 to refuse permission is made by Mr. Stuart Stein. The matters raised in the appeal may be summarised as follows:

- Planning Authority's decision is procedurally unsound and substantively inconsistent with national and local policy.
- The reason for refusal introduces new concerns relating to height, massing and perceived overbearing impacts which were not raised in the request for Further Information.
- Article 33(2) of the Planning and Development Regulations 2001, as amended, requires that Further Information must identify all information necessary to enable the Planning Authority to make an informed decision. Matters raised in the request were addressed in full by the applicant. No concerns were raised with regard to overall height, massing or impact on streetscape. The subsequent refusal therefore introduces new issues which are outside of scope, and denies the applicant an opportunity to respond and is inconsistent with the intent of Article 33(2) and with fair procedure.
- The development is in accordance with national and local planning policy including National Policy Objectives (NPO's) of the National Planning Framework; Specific Planning Policy Requirement SPPR's of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities 2024; and is in accordance with the provisions of the Dublin City Development Plan 2022-2028
- The development represents a policy compliant, single-family dwelling consistent with compact growth objectives.
- The scale and height remain consistent with infill topologies supported by the Dublin City Development Plan.
- Receiving streetscape encompasses a mix of designs, including the Dolphin Park apartments which introduce 3-4 storey heights.

- Parapet height remains below the ridge line of adjoining pitched roofs, presenting a transition between two-storey development and the larger apartment scheme.
- The planning officer's report considered that a three-storey unit could be considered in principle, subject to design refinement. The refusal therefore conflicts with this earlier assessment.
- The building façade has been refined through the omission of balconies, simplified fenestration and use of contextual materials, with the design maintaining balance and rhythm consistent with domestic architecture.
- The intended layout remains appropriate for multi-generational family use. Appropriate levels of private amenity space are provided, and internal daylight and privacy are safeguarded through considered window placement.
- The development complies with SPPR 2 and Development Plan Policy standards. Daylight/sunlight assessments were not requested/undertaken.
- The appellant would accept minor architectural amendments such as a modest setback to the upper storey in the order of 1.5m, parapet articulation or enhanced landscaping if considered necessary by the Commission.
- The development would not set an adverse precedent, and each infill must be assessed on its merits in accordance with the principles of compact growth.

6.2. Planning Authority Response

The planning authority requests the Commission to uphold the decision to refuse permission. Where permission is to be granted, a condition relating to the payment of a development contribution under Section 48 of the Act is requested, together with conditions relating to social housing and naming and numbering.

7.0 Assessment

- 7.1. Having examined the application details and all other documentation on the file and having regard to local, regional and national planning policies and guidance and

having visited the site, I consider that the main issues in this appeal relate to the following:

- Principle of Development
- Design
- Residential and Visual Amenities
- Other Matters

7.2. Principle of Development

- 7.2.1. The appeal site is located on lands zoned Z1 'Sustainable Residential Neighbourhoods' where the objective seeks *'to protect, provide and improve residential amenities'*. Residential development is permitted in principle. I refer also to specific Development Plan provisions such as those pertaining to Infill Development (Section 15.5.2), Infill/Side Garden Housing (Section 15.13.3) and Backland Housing (Section 15.13.4). Core tenets of the Plan relate to consolidation and the achievement of compact settlement patterns, reflecting national planning policy and Section 28 Ministerial Guidance in this respect. It is the stated policy of Dublin City Council to achieve greater intensity in suburban areas through infill, backland and mews development, as well as through the re-use of existing housing stock. Policy SC11 Compact Growth and Policy QHSN6 Urban Consolidation also relate in this regard.
- 7.2.2. While the development's ability to comply with specific Development Plan criteria, including compatibility of design and scale are set out in the following sections, I am satisfied that in principle, the proposal is acceptable on the subject lands and is in compliance with the underlying Z1 land use zoning objective pertaining to the site.

7.3. Design

- 7.3.1. The appeal site as outlined in the application documentation relates to the host dwelling, the flat-roofed single-storey side extension thereto, and its associated garden and forecourt areas. The site is irregular in shape, extending to a stated area of 0.016Ha. In a departure from the two-storey form of development prevalent in the

immediate area, the proposal provides for a flat-roofed, three-storey contemporary building extending to 8.49m in height with a roof parapet shown below the ridge level of No. 29 Herberton Park.

- 7.3.2. While the traditional and predominant design format in the area is for two-storey hipped-roof dwellings, the recently constructed New Dolphin Park apartment complex lies to the south and is within Zone Z14 Strategic Development and Regeneration Areas (SDRA's). Block B, a three/part four storey structure lies to the immediate south of No. 31 Herberton Park, bounding the appeal site.
- 7.3.3. I refer the Commission to provisions under Section 15.13.3 Infill/Side Garden Housing Developments of the Dublin City Development Plan where such development is supported as an efficient use of serviced residential lands. The section goes on to prescribe criteria which the planning authority will have regard to in assessing such proposals. These include the compatibility of design and scale with adjoining properties as well as attention to established building lines, proportions, heights, parapet levels and materials. I note a degree of flexibility in relation to larger corner sites wherein a variation in design may be considered. In relation to more compact detached proposals, the policy suggests closely relating to adjacent dwellings. The Plan also stipulates that a modern design response may be more appropriate in certain areas, and the Council will support innovation in design.
- 7.3.4. I note the First Party's contention that the proposal sits within a mixed streetscape into which contemporary design elements have been introduced, including three/four storey building heights. I agree to an extent with this view, noting that New Dolphin Park adjacent is a modern intervention, providing for a contemporary residential block. I note however, that the development is a standalone, self-contained residential complex, forming part of the larger regeneration of the Dolphin House flats, rather than a subdivision of an existing residential plot. The design and legibility of this block within the streetscape (turning the corner on Herberton Park) is clear and unambiguous.
- 7.3.5. I do not agree with the appellant that in keeping the parapet height of the proposed structure below the ridgeline of adjoining pitched roofs presents a modest and scaled transition between existing two-storey dwellings and the larger apartment scheme. Instead, I am of the opinion that the architectural language is disjointed, and a scaled transition is not achieved.

7.3.6. I note the requirements of Section 15.13.3 of the Development Plan and the requirement for infill/side garden housing to demonstrate compatibility with the design and scale of adjoining properties, while paying attention to established building lines, proportion, heights, parapet levels and materials. I do not consider that the physical layout or proportions of the site support a variation in design to the degree proposed. The design and scale of the three-storey dwelling bears little resemblance to the host property, failing to reflect its proportions, massing or design, thereby resulting in a development which would fail to deliver a legible or sympathetic infill to Herberton Road and appearing incongruous in the streetscape. As stipulated in the Development Plan in reference to more compact infill sites, there may be merit in seeking to align more closely with the host dwelling in design terms.

7.3.7. I have reviewed the plans and particulars submitted in response to the planning authority's request for Further Information. The most impactful of the amendments provide for the removal of balconies to the front elevation, adjustments to fenestration and clarification of finishing materials. I am not of the view however, that the amendments fundamentally alter the design or address the concerns highlighted above. If the Commission is minded to award planning permission, the appellant has signalled that he would be agreeable to conditions giving effect to architectural refinement such as a modest setback to the upper storey, parapet articulation or enhanced landscaping. I am of the view however, that such minor refinements would not address the fundamental design concerns evident.

7.4. Residential and Visual Amenities

7.4.1. Permission is sought for a contemporary single-family dwelling designed for multi-generational living. Revised plans submitted by way of Further Information omitted balcony areas to the front elevation. The applicant indicated in the response that 'the proposal provides a total of 36 sq.m. of functional rear private amenity space comprising 27sq.m garden and 9sq.m patio directly accessible from the main living areas'. This provision is stated to meet the requirements of SPPR2 and Development Plan requirements for a 4+ bedroom dwelling.

- 7.4.2. A side patio, (of depth c.1.5m and a stated area of 14sq.m) given its position between the proposed three-storey northern elevation of the building and the boundary wall with the adjoining parish centre, would be unlikely to afford high quality residential amenity to future occupants, and is essentially an incidental area with poor functionality. The appellant indicates this area is not relied on to demonstrate open space requirements as per the Development Plan or relevant guidelines. The site is also stated to benefit from proximity to Herberton Park, Grand Canal Linear Park and Griffith Barracks Park.
- 7.4.3. I note in the appeal documentation that the total private open space provision is stated as 50sq.m comprising the 36sq.m. (rear garden and patio) and includes the 14sq.m. supplementary side patio. This appears to be contrary to the Further Information response.
- 7.4.4. Private open space extending to 50sq.m. remains to serve the host dwelling. Floor plans for this dwelling are not provided and as such I am unclear as to the number of bedrooms within the property.
- 7.4.5. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities stipulate under SPPR 2, that minimum private open space standards for houses is 50sq.m in instances of 4+ bedrooms. A reduction below the minimum may be considered acceptable *'where an equivalent amount of high quality semi-private open space is provided in lieu of the private open space, subject to at least 50 percent of the area being provided as private open space'*. The guidelines also state that for building refurbishment schemes *'on sites of any size or urban infill schemes on smaller sites (e.g. sites of up to 0.25ha) the private open space standard may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and proximity to public open space'*. In all cases, the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or the Commission that residents will enjoy a high standard of amenity.
- 7.4.6. The Dublin City Development Plan requires under Section 15.11.3 a minimum standard of 10 sq.m. of private open space per bedspace. This generally equates to 60-70 sq.m of rear garden area being considered sufficient for houses in the city,

although the Plan also states that these standards may be relaxed on a case-by-case basis subject to a qualitative analysis of the development.

- 7.4.7. The stated provision of 36sq.m. of functional rear private amenity space is below the requirements of SPPR2 and below requirements of Section 15.11.3 of the Dublin City Development Plan. While the appeal site, extending to 0.016Ha could stand to benefit from a relaxation in private open space standards, I am of the view that the scale of the proposal providing for 6 no. bedrooms with intended multi-generational occupancy would be poorly served by the private amenity space proposed given its location, design and functionality. This would result in the provision of poor-quality residential amenity for future occupants.
- 7.4.8. While the interface between opposing windows at a number of locations within the build and the proposed set back of opes from third party boundaries is addressed by high level placement and re-alignment, the response is not entirely satisfactory and speaks to concerns regarding overdevelopment on this compact site.
- 7.4.9. I refer also to concerns raised by the appellant that daylight/sunlight assessment was not conducted or sought by the planning authority. I do not hold that such analysis would have been warranted having regard to the fundamental design concerns identified.

7.5. **Other Matters**

- 7.5.1. The appellant raises concerns that the decision of the planning authority is procedurally unsound and introduces matters which the appellant was not afforded an opportunity to address during the request for Further Information. The appellant refers to the requirements of Article 33(2) of the Planning and Development Regulations 2001, as amended, stating that all information necessary to enable the planning authority to make an informed decision should be identified. The appellant contends that such matters, in particular relating to issues of height, massing and overbearance, were not raised during the request and denied the applicant an opportunity to respond and is therefore inconsistent with fair procedure.

- 7.5.2. I note in this regard, the Further Information request contained two items, the first relating to design. Before delving into specific issues, Item No. 1 stated that the *'Planning Authority has concerns with the design and scale of the proposed development and impact on surrounding developments'*. Parts (a-f) respectively sought further detail to address: the nature of the accommodation; revisit the design of the scheme/omission of front balconies; details of material finishes; separation between internal facing windows; demonstration of consistency with SPPR2 of the Sustainable Residential Development and Compact Settlement Guidelines/details of side passage/boundary wall heights; and the location of bin and bicycle storage areas.
- 7.5.3. Article 33 (1) of the Planning and Development Regulations 2001, as amended states *inter alia* that a planning authority may *'require the applicant-*

(a) to submit any further information (including any plans, maps drawings or any information as to any estate or interest in or right over land) which the authority considers necessary to enable it to deal with the application'.

Article 33 (2) states that *'subject to sub-article (2A) a planning authority shall not require an applicant who has complied with a requirement under sub-article (1) to submit any further information or evidence save-*

(a) as may be reasonably necessary to clarify the matters dealt with in the applicant's response to a requirement to submit further information or evidence or to enable them to be considered or assessed'.

- 7.5.4. I am of the view that fundamental concerns were raised by the planning authority at the outset of Item No. 1 regarding the *'design and scale of the proposed development and impact on surrounding developments'*. While follow-on matters related to specific aspects of the design, concerns regarding the principle of development were clearly articulated at the outset.

I do not agree that the reason for refusal ultimately recommended introduced issues unrelated to the request for Further Information or matters not previously expressed hitherto by the authority. In this regard, it would be reasonable to infer that concerns regarding design, scale and impacts on surrounding developments of a particular proposal would necessitate a root and branch review of the design in question, encompassing related design aspects such as height and massing as well as analysis of any likely impacts on neighbouring properties.

7.5.5. The First Party refers to conflict within the planning authority's planning reports, wherein the initial report refers to the acceptability of a three-storey design while a recommendation to ultimately refuse permission was made in the final report. I note the first report refers to the site's context stating '*while the proposed structure has not matched the prevailing mass and architectural design of the immediate residential area, it is noted that there is precedent on the street for apartment schemes which are similar in height*' and '*in this instance it is considered that a 3-storey unit could be considered acceptable*'. I do not hold that analysis conducted in establishing the wider context of a site or in suggesting that the principle of a particular building height is acceptable amounts to a conflict when viewed against the ultimate recommendation made. Support expressed in this manner does not infer that all remaining elements of the proposal are satisfactory or e.g. compliant with Development Plan policy. I do not agree that a conflict has arisen, particularly given the follow-on recommendation of the initial planning report to seek further information to address design concerns.

8.0 Appropriate Assessment

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

The appeal site is located on zoned, serviced lands in an urban area. The separation distances between the appeal site and Natura 2000 sites situated in the wider area are set out below:

South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) c.5.5km

North Bull Island SPA (Site Code 004006) c.8.2km

North West Irish Sea SPA (Site Code 004236) c.10km

Dalkey Islands SPA (Site Code 004172) c.14.8km

South Dublin Bay SAC (Site Code 000210) c.5.5km

Rockabill to Dalkey Island SAC (Site Code 003000) c.13.7km

North Dublin Bay SAC (Site Code 000206) c.8.2km

8.2. The development comprises the construction of a three-storey dwelling house and associated site works.

- 8.3. The Planning Authority undertook Appropriate Assessment Screening, determining that significant effects were not likely to arise, either alone or in combination with other plans and projects that would result in significant effects to any Natura 2000 areas. A full Appropriate Assessment of this project was not required.
- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site. The reason for this conclusion is as follows:
- Nature of the works i.e. construction of a three-storey dwelling house and associated site works.
 - Location and distance from the nearest European site and lack of connections.
 - Taking into account determination of the Planning Authority.
- 8.6. I conclude on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site. either alone or in combination with other plans or projects.

Likely significant effects are excluded and thereafter Appropriate Assessment (under Section 177V of the Planning and Development Act 2000), as amended, is not required.

9.0 Water Framework Directive

- 9.1. The subject site concerns a small plot of land at No. 29 Herberton Park. The proposal concerns the demolition of a single storey extension and the construction of a three storey, 6-bedroom dwelling house with associated site works. The appeal site is separated by a distance of approximately 180m from the Grand Canal Main Line (Liffey and Dublin Bay) IE_09_AWB_GCMLE; is approximately 784m from the River Camac IE_EA_09C020500 and is approximately 1.3km from the River Poddle_010 IE_EA_09P030800. The site is within the Liffey and Dublin Bay Water Framework Directive Catchment ID09.
- 9.2. I have assessed the development seeking permission and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks to protect and, where necessary, restore surface and ground water waterbodies in order

to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is as follows:

- Nature of works concerned, providing for the development of a three-storey dwelling on a brownfield site which is zoned, and noting existing connections to public wastewater and water supply systems.
- Distance from nearest water bodies and/or lack of hydrological connections.

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

10.0 Recommendation

Having regard to the foregoing, I recommend that permission is refused.

11.0 Reasons and Considerations

Having regard to the restricted nature and layout of the site, together with its relationship to neighbouring properties, it is considered that the height, scale, and architectural design of the proposed three-storey dwelling would result in a visually incongruous feature in the streetscape which would fail to integrate with the established character and pattern of development in the area. Furthermore, the proposed development, having regard to its internal floorspace composition; its relationship to the host dwelling and to the suboptimal provision of private amenity space intended to serve it, would give rise to a poor standard of residential amenity for future occupants, and would impact the residential amenities of the existing dwelling at no. 29 Herberton Park. The proposal would therefore seriously injure the residential amenities of both existing and future residents of this site and result in poor

quality residential consolidation which would be contrary to the proper planning and sustainable development of the area.

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

Patricia Byrne

Planning Inspector

06 March 2026

Form 1 - EIA Pre-Screening

| | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Case Reference | ACP-500156-DS |
| Proposed Development Summary | Demolition of existing single storey side extension and construction of new 3-storey detached 6-bedroom dwelling with 2 no. balconies to the front, new vehicular access and associated site work. |
| Development Address | No. 29 Herberton Park Rialto Dublin 8. |
| In all cases check box /or leave blank | |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources) | <input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. |
| | <input type="checkbox"/> No, No further action required. |
| 2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)? | |
| <input checked="" type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP. | Class 10(b) Part 2 Schedule 5 Construction of more than 500 dwelling units |
| <input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3 | |
| 3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds? | |
| <input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required. | |
| <input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required | |

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|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| <input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required) | 1 no. dwelling on a stated site of area 0.016Ha at No. 29 Herberton Park, Rialto, Dublin 8. |
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|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| 4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)? | |
| Yes <input type="checkbox"/> | Screening Determination required (Complete Form 3) |
| No <input checked="" type="checkbox"/> | Pre-screening determination conclusion remains as above (Q1 to Q3) |

Inspector: _____

Date: _____

Form 2 - EIA Preliminary Examination

| | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Case Reference | ACP-PL-500156-DS |
| Proposed Development Summary | Demolition of existing single storey side extension and construction of new 3-storey detached 6-bedroom dwelling with 2 no. balconies to the front, new vehicular access and associated site work. |
| Development Address | 29 Herberton Park, Rialto, Dublin 8 |
| This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith. | |
| Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health). | Demolition of existing single storey side extension and construction of a new 3-storey detached 6-bedroom dwelling with 2 no. balconies to the front, new vehicular access and associated site work. The site is zoned Z1 Sustainable Residential Neighbourhoods, the objective of which is <i>'to protect, provide and improve residential amenities.'</i> The site is brownfield in nature and is serviced, forming an area occupied by a single storey extension to an existing semi-detached dwelling. The site area is stated as 0.016 Ha. and the gross floor area extends to 207 sq.m. The development does not require the use of substantial natural resources or gives rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health. |
| Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance). | The development is located within an urban area on lands which are zoned and serviced for development. The site does not impact protected views. The site is situated approximately 5.5km from South Dublin Bay and River Tolka Estuary SPA (Site Code 004024) and is approximately 5.5km from South Dublin Bay SAC (Site Code 000210), the closest European sites. The site is zoned under Zone Z1 of the Dublin City Development Plan and is not located within an Architectural Conservation Area. No protected structures lie in the immediate vicinity. No cultural or historic impacts arise. |
| Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation). | Having regard to the nature of the proposed development demolition of a single storey extension and construction of a three storey, 6 no. bedroom dwelling and its location, removed from sensitive habitats/features; likely limited magnitude and spatial extent of effects; and absence of in-combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act. |
| Conclusion | |
| Likelihood of Significant Effects | |
| There is no real likelihood of significant effects on the environment. | EIA is not required. |

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| There is significant and realistic doubt regarding the likelihood of significant effects on the environment. | |
| There is a real likelihood of significant effects on the environment. | |

Inspector: _____

Date: _____ .