



Development	Change of use of St. Mary's nursing Home to residential use, construction of 24 apartments.
Location	St. Mary's Home, Pembroke Park and 28A, Clyde Lane, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2424/19
Applicant(s)	The Pembroke Road Partnership.
Type of Application	Permission.
Planning Authority Decision	Grant Permission subject to conditions
Type of Appeals	(1-6) Third Party v Permission (7) First Party v conditions 5, 6(a)(vi) and Condition 14(d)
Appellant(s)	(1) Olive Moran & Philip Dunne (2) Michael McKay & Catriona Mullane (3) Caitríona Ní Chuív (4) Ardmews Management Paramount Estates Ltd. (5) Upper Leeson Street Area

Residents Association
(6) Prof Margaret Hannon
(7) The Pembroke Road Partnership
Observer(s) Eugene & Joan Swaine
Niall Power Smith
Charles Normand
WR Matthews
Herbert Park Residents Association
Ann Greene
Colm Menton
Noeleen Kenny.

Date of Site Inspection 25th October 2019.

Inspector Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to a site area of approximately 0.35ha occupied by St Mary's Home, a residential nursing home located at Pembroke Park and 28A Clyde Lane in Dublin 4. The main access to the appeal site is from Pembroke Park to the southwest with a pedestrian entrance from Clyde Lane to the east. The site is bounded by St Conleth's College, a private primary and secondary school, to the north and by commercial properties to the east and residential properties to the east, south east and south west.
- 1.2. St Mary's comprises a large red brick Victorian building which was built in 1891 and designed by architect Sir Thomas Manly Deane. The existing nursing home building is three storeys in height and is constructed of red brick and built over several phases in the late 19th and early 20th centuries. The main structure has a double pitched roof with later additions having flat roofs. The building includes a chapel with internal exposed wooden beams and stained-glass window.
- 1.3. The building was originally home to St Bartholemew's Church Home and Schools. A new wing was added to the southwest end of the building in 1924 also designed by the same architect. Over the years there have been many alterations to both exterior and interior of St Mary's. Externally the majority of the original windows have been replaced with PVC windows, the fenestration has been altered with changes to both the position and size of the original opes and small-scale extensions have been added such as a sun room to the south east elevation and a 2-storey extension housing a laundry and vestry on the north west elevation.
- 1.4. The existing building is rectangular in shape and is oriented in a north easterly / south-westerly axis with the south west elevation addressing the private lane to the south which provides access to Ardoyne House. The remainder of the site comprises garden area to the east and south, together with surface parking to the west and north west of the building. The appeal site incorporates part of the curtilage of 28A Clyde Lane, a mews dwelling accessed from Clyde Lane. The mews house is a two-storey structure and forms part of the site boundary with St Conleth's school to the north. The footprint of the mews does not form part of the site. The building which was formerly occupied by staff associated with the nursing home is in the course of

being transferred to St Conleth's College for education or associated use with the possibility of future development. ¹

- 1.5. St Conleth's school comprises a large detached Victorian House accommodating classrooms, reception rooms and staff facilities in addition to a more substantial primary three storey structure which houses the majority of the schools classrooms staff and student facilities canteen and multi-purpose sport hall. The school buildings have been extended in recent years with the addition of a third storey to the main school building and the extension of the sport hall and changing facilities including the addition of a large new multi-purpose room and gym above the sport hall. The main vehicular and pedestrian access to the school is from Clyde Road with occasional access provided via a double gate and a further single pedestrian gate from Clyde Lane. The boundary of the school with the appeal site is defined by outdoor / play areas to the east and west and centrally by the rear of the sport hall and main school buildings. A narrow circulation route runs behind the school buildings and between these structures and the boundary with the site.
- 1.6. To the east the site is bounded by Clyde Lane and existing residential development which is accessed via the private laneway to the south of the site. Ardoyne House, a substantial modernist residential building dating from the mid 1960s with a monolithic landmark design stands further to the east adjacent to Herbert Park.
- 1.7. On the opposite side of Clyde Lane, the site is opposed by the side and rear boundary wall of properties facing onto Clyde Road which are protected structures. The two most proximate of these properties are in office / commercial use with surface car parking located to the rear accessed via gates onto Clyde Lane.
- 1.8. To the west the site is bound Pembroke Park an elegant formal street defined by attractive two storey semi- detached red brick Victorian houses with large front gardens. The wider area is predominantly defined by Victorian era development accommodating a range of residential uses including embassies and consulates.
- 1.9. Immediately south east of the site is the residential development of Ardoyne Mews which directly abuts the site at its south eastern corner and comprises a row of 2 storey mews houses with first floor terraces facing onto Clyde Lane. Ardoyne Lane

¹ 2818/19 Permission granted by DCC for Change of use of 28A Clyde Lane from residential to ancillary educational use associated with Conleth College. See Planning History Section 4.0 below for details.

runs directly along the southern boundary of the site and to the south of this No 2 Pembroke Park a semi detached two storey dwelling at the end of a row of fine period dwellings.

2.0 Proposed Development

2.1. The proposal as set out in public notices involves permission for

- 1) Demolition of non-original extensions to St Mary's Home and ancillary structures on site;
- 2) Alterations to and change of use of the existing St Mary's Home (nursing home) to residential use, including internal and external alterations, elevational alterations, provision of terraces at second floor level and balconies at first floor level, to provide 9 no residential units;
- 3) Construction of new 2, 3 and 4 storey structures to the north and east of the existing St Mary's Home, including balconies and private open space, to provide 15 no residential units;
- 4) The proposed development will provide a total of 24 no residential apartment units comprising of 3 no 1 bed apartments, 16 no 2 bed apartments, and 5 no 3 bed apartments;
- 5) Provision of a basement level to accommodate car parking (25 no spaces including car stacker system), bin storage areas, plant, and service cores;
- 6) 2 No accessible parking spaces are provided at ground floor level along with cycle parking (46 no spaces);
- 7) The development includes all associated site development works, solar panels at roof level, bin store, hard and soft landscaping, boundary treatments, widening of vehicular access from Pembroke Park, pedestrian access from Clyde Lane and Pembroke Park, foul and surface water drainage, and all other ancillary works, including temporary site hoarding and marketing signage.

- 2.2 Application details indicate that constructive consultation has been undertaken with St Conleth's College with regard to the adjacent mews dwelling with a possible future application for its demolition and redevelopment as school accommodation of compatible design which will be subject to a further separate planning application. Notably a recent permission was granted by Dublin City Council 2018/19 for change of use Change of use of 28A Clyde Lane from residential to ancillary educational use associated with Conleth College. See Planning History Section 4.0 below for details.
- 2.3 The application provides for the main building St Mary's house to be re-purposed and renovated for residential use to provide for contemporary apartments. The existing building is currently set out over three levels for nursing home use. Existing upper floors are of timber construction and it is outlined that due to the level of intervention necessary to re-purpose the building for residential use the existing floor plates within the building will be replaced within the building to meet contemporary requirements in terms of acoustic standards and fire safety. It is proposed to restore the facades of the building and provide a replacement roof mirroring the existing roofline and reusing the existing slates.
- 2.4 The re-purposed building will provide for 9 no residential units comprising 3 apartments at ground floor level, 3 at first floor level, 2 large apartments at second floor level and a two-storey duplex apartment within the existing chapel element of the building. The top floor apartments are provided with outdoor terrace areas. Private open space for first floor units is provided by way of balconies. The proposed duplex apartments have own door access while existing building will be accessed via a new core to the north, which forms a part of the proposed new build extension structure. Ground floor apartments have direct access to private terrace areas located to the south of the building. First floor apartment have south facing balcony areas .
- 2.5 The new build elements of the scheme are located to the north and linking with the existing building to be re-purposed with a further new build structure located to the east on the boundary of the site with Clyde Lane and provide a total of 15 residential

units. The new build element facing onto Clyde Lane (Block B) is three and four storeys in height and will accommodate 7 no apartment units in total. The new build element block C is three storeys in height stepping down to two at the most westerly corner. The building include a staggered front elevation gradually stepping forward from the western faced of the nursing home. This includes 8 units. A glazed link connects Blocs A and C providing for stair core within the new building also accessing the upper floor of the original building.

- 2.6 A basement is proposed as part of the development to accommodate parking services cores, plant room and bin storage. Vehicular access to the basement is provided via a map from Pembroke Park end of the site descending below the landscaped open space proposed in the south of the site. 25 car parking spaces will be provided at basement level in addition to secure bicycle parking.
- 2.7 A communal open space of 193 sq.m is provided. The sole vehicular access is from Pembroke Park, while cycle and pedestrian access is provided both from Pembroke Park and Clyde Lane. As regards Part V it is noted that as the proposal to St Marys involves retention of over 50% of the external fabric of the building Part V applies to the new build units.
- 2.8 In response to the Council's request for additional information amendments were made to the scheme to address concern with regard to prominence in the streetscape. The top floor of the four-storey proposed building which faces the Clyde Lane was redesigned including provision for increased setback and certain changes to materials finishes and internal layout. The proposed south facing terraces within the upper floor of the existing building were also reduced in width. It was proposed to relocate the existing pedestrian gateway to Clyde Lane within the site to preserve it as a feature of architectural interest. The landscaping plan was also amended.

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 4th July 2019 Dublin City Council issued notification of its decision to grant permission for the development subject to 16 conditions including the following of particular note.

- Condition 2. Development contribution €274,924.80 in accordance with the Development Contribution Scheme.

Condition 4. Part V Agreement.

- Condition 5. *“The development shall be revised as follows:*

(a) The third floor of Block B shall be omitted from the scheme,

(b) The terraces at roof level in the original building shall be reduced in width to a maximum of 5m.

Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to and agreed in writing by the Planning Authority and such works shall be fully implemented prior to occupation of the buildings.

Reason: In the interests of orderly development and the visual amenities of the surrounding Z3 area and to preserve the character of the historic building.”

- Condition 6. *“The following Conservation Requirements of the Planning Authority shall be complied with;*

a. Prior to the commencement of development, the applicant shall provide the following information to the Planning Authority for their written agreement;

i The detailed design of the 1.5m ground level opening in the front boundary wall to accommodate an overland flow route.

ii Revised drawings that show the width of the permitted opening in the boundary wall along Clyde Lane limited to 1.5m.

iii 1:20 details of all proposed railings and gates.

iv Full drawing survey including photographic record of all existing boundary walls. Detailed schedules of any repair and reinstatement works that areas required to the walls should be fully detailed. A method statement for the raking out and re-pointing of the stonework and associated repair details are to be provided. Details of the historic stone coursing, sizes of stone as well as mortar composition and colour are to be provided.

v Full details of all proposed new elements such as tothing-in and repair works that shall be required. All new elements will match the historic walls.

vi Revised plans and elevations showing the width of the roof terraces at second floor level within the historic building at St Mary's limited to 5m as a maximum

Reason: In order to ensure that all new works will be sympathetic to the architectural character of the historic building and respect the curtilage of the historic site.

- Condition 7. The developer to comply with the requirements set out in the code of practice from Drainage Division, the Transportation Planning Division and the Noise and Air Pollution Section.
- Condition 11. Drainage requirements.
- Condition 12. Transportation requirements.
- Condition 13. Archaeological assessment.
- Conditions 14 Waste (for apartment blocks / commercial buildings)

The applicant shall comply with the following waste management requirements in the planning process:

- (a) The requirements set out in the separate Bye-Laws for the Collection, Storage and Presentation of both Household and Commercial waste and certain related waste management matters must be adhered to and, in particular, the requirements in the Bye-Laws to segregate waste into separate fractions to facilitate the collection dry recyclable, organic kitchen/garden waste and residual waste.*

- (b) *Bins that comply with IS EN840 1997 must be used. Ideally, 1,100 litre bins should be used with dimension of 1.3metres long by 1.0metre wide by 1.3metres high and with a load capacity of approximately 0.5 tonnes. Other types of receptables may only be used with the written consent of Dublin City Council.*
- (c) *For commercial developments there must also be enough storage space for a minimum of 1 no 1,100 litre bin per 10 bags to be collected. For apartment schemes there must be sufficient storage space for a minimum of 1 no 1.100 litre bin per fifteen people available of the communal apartment collection scheme.*
- (d) *Sufficient space must be provided to accommodate the collation of dry recyclable and organic kitchen waste / garden waste. Provision should also be made for the collection of glass (separated by colour) in Bottle Banks within the curtilage of the development. The total footprint of each of these banks is 4 metres by 2 metre wide. The location must be external with the sufficient access and clearance for servicing using a crane.*
- (e) *The bin storage areas must not be on the public street and should not be visible or accessible to the general public.*
- (f) *The bin storage areas should be designed so that each bin within the storage area is accessible to occupants/employees of the development (including people with disabilities).*
- (g) *Suitable wastewater drainage points should be installed in the bin storage area for cleaning and disinfecting purposes.*
- (h) *A waste collection contract must be signed with Dublin City Council or a private waste collector who is the holder of a Waste Collection Permit, prior to the commencement of the collection of waste.*
- (i) *Sufficient access and egress must be provided to enable bins to be moved easily form the storage area to an appropriate collection point on the public street nearby. The access and egress area should have no steps and have a minimal incline ramp.*

Reason: In order to ensure a satisfactory standard of development.”

- Condition 15. Waste management requirements and refuse storage.
- Condition 16. Naming and numbering scheme to be agreed.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 Initial Planning Report sought additional information to include revisions to top floor element of Block B to ensure that it relates more sympathetically to the prevailing architectural character on the laneway and in order to comply with the Development Plan Policy S16.10.16 which relates to development on mews lanes. Proposal should retain existing vehicular opening width to Pembroke Park to minimise removal of original fabric. The first party was also requested to consider how the extend and width of the recessed terraces / dormer rooflights at second floor level in Block A to ensure that the profile of the historic roof remains legible. A revised landscaping proposal was also requested as well as clarification on whether the mews dwelling on Clyde lane would remain occupied. Details of car parking stacker system and emergency access provision to be outlined. Clarification was also sought regarding apparent works proposed beyond the red line boundary along Clyde Lane as depicted on Drawing P1010 proposed ground floor plan.

3.2.1.2 Final Planning Report notes the remaining concerns of the Conservation Officer with regard to height and scale and interventions to the historic structure. The development proposed is considered appropriate at the northern corner and front of the site, however the increased height to Clyde Lane is more problematic. Recommendation therefore that the top floor of Block B be omitted by condition. The interventions to the historic structure are significant and are not supported by the Conservation Officer. The loss of original historic fabric is regrettable although it is noted that the building is not listed on the RPS and the applicant has attempted to preserve significant elements such as the chapel on the eastern side of the building, it is also noted that the residential units to be provided throughout the site are of high quality and well in excess of minimum standards. Permission was recommended.

3.2.2. Other Technical Reports

- 3.2.2.1 Engineering Department Drainage Division report indicates no objection subject to Compliance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.0. Separate foul and surface water systems with a combined final connection discharging into Irish Water's combined sewer system. Full details of proposed SUDS Mechanisms to be agreed. Flood risk assessment to be resubmitted. Proposal for management of surface water as indicated on drawings is not acceptable. Revised proposal to be submitted including provision for an appropriate petrol interceptor on the internal drain from the basement car park, Revised design of attenuation tanks to show how the surface water will be held, inflow from attenuation tank with the manhole and outflow to combined manhole to be revised. SUDS to be incorporated to management of surface water.
- 3.2.2.2 City Archaeologist report notes that as the 1st edition ordnance mapping of 1840s depicts the Swan River watercourse running through the north eastern tip of the site this increases the possibility of archaeological material at a subsurface level. Recommend a condition for an archaeological impact assessment including test trenching.
- 3.2.2.3 Transportation Planning Division report notes concerns that if mews dwelling (28A Clyde Lane) remains inhabited and car space is removed this may result in overspill car parking on the road network. Car parking proposals are acceptable. Details of car cycle stacker systems are required and details regarding emergency access. Drawing P1010 proposed ground floor plan appears to show works extending beyond the red line boundary along Clyde Lane. Transportation report following further information indicates no objection subject to conditions including construction management plan. Car parking spaces to be permanently allocated.
- 3.2.2.4 Conservation Officer's report notes that although the building is not on Record of Protected Structures RPS, it is of architectural and artistic merit contributing positively to the streetscape along Pembroke Park. Notably St Mary's is first recorded in the 1901 census as being on Clyde lane supporting the idea that Pembroke Park had not been built at the time of the construction of the building.

Loss of mature trees will significantly permanently alter the mature character of the street. Given that the proposal involves basement construction the potential for growing large trees lawn and hedge is diminished. Pre-planning advice recommended retention of walls and localised intervention where necessary. Wilful loss of structural fabric is considered poor conservation practice. Proposed strategy is risky and could result in loss of remaining historic elements including the historic façade in the course of construction works. Proposed interventions to roof are regrettable. Do not support alteration of the width of the extant opening to Pembroke Park and the historic elements to Clyde Lane should be retained. The established building line should be respected. In relation to the height new buildings should remain subservient to the historic buildings. Recommend revised drawings incorporating building line that has respect for extant houses on Pembroke Park. Revision to roofline to shorten proposed dormer rooflights to ensure that the historic roof remains legible. Top floor of proposal along Clyde lane to be omitted. Retain width of existing vehicular entrance. Revised landscaping

Following further information report reiterates concern that primary elements be retained to ensure that the historic floor plan remains legible. Compromise regarding brick arch to Clyde Lane is noted. Entrance to Clyde lane should be reduced to 1.4m maximum and new gates and railings to be agreed. Reiterate concerns regarding over intensification of the site. Height, scale, density and materials give rise to significant adverse impact on the setting and enjoyment of the nearby 19th and 20th century houses in the immediate environs. Basement of concern and roofscape intervention inappropriate. Permission was recommended subject to conditions requiring agreement in respect of 1.5m ground level opening to front boundary wall to accommodate overland flow route, railing and gates. Full drawing survey including photographic record of all boundary walls and schedule of repairs and reinstatements for raking out and re-pointing of stoneware. Revised plans and elevations showing width of roof terraces at second floor level limited to 5m maximum.

3.3. Prescribed Bodies

3.3.1 No submissions

3.4. Third Party Observations

3.4.1 A number of third-party submissions object on common grounds. The observers are listed as follows:

- Roger Mc Morrow, 6 Pembroke Park
- Eugene & Joan Swaine, 15 Pembroke Park
- Michael McKay & Catriona Mullane, 2 Pembroke Park.
- Anne Greene, 35 Pembroke Park
- WR Matthews, 5 Pembroke Road.
- Carmen Neary on behalf of Upper Leeson Street Area Residents Association.
- Caitríona Ni Chuív, 9 Pembroke Park
- Olive Moran & Philip Dunne, 3 Pembroke Park
- Prof Margaret Hannan, 1 Pembroke Park.
- Manahan Planners on behalf of Ardmews Management

3.4.2 The grounds of objection also raised in the third-party appeals, have been summarised as follows:

- Overdevelopment, Overlooking and Overbearing impact.
- Contrary to Z2 zoning objective.
- Impact of basement construction on drainage. Flooding.
- Previous decisions of the Board with regard to scale height.
- Inappropriate setback from Pembroke Park, in breach of building line.
- Colour on the façade is inappropriate.
- Loss of mature foliage.
- Overlooking of back gardens by balconies within 22-23m. Dense screen planting should be provided along the eastern boundary of the site.
- Proposal is not in keeping with low density nature of this conservation area.
- Overlooking of classrooms.

- Concerns that small print on plans provide for future changes.
- Adverse traffic and parking consequences.
- Light impact of glazed link structure.
- Pedestrian entrance from Pembroke Park excessively wide.
- Basement car parking to the edge of the site of concern.
- Structural impact of piling on the building, noise impact and impact on amenities.

3.4.3 Submission from St Conleth's College notes that the design of the scheme is sensitive with regard to the impact on school facilities and constructive discussion has taken place with regard to development.

4.0 Planning History

4.1 No recent Planning history on the appeal site.

Adjacent

2818/19 Permission granted for change of use of 28A Clyde Lane from residential to ancillary educational use associated with St Conleth's College. The change of use will include associated alterations to the building including the closing up of windows and doorway in the southern façade, the provision of a doorway and windows to the western facade and the provision of a window to the eastern façade.

2353/16 Extension of General-Purpose Hall at St Conleth's College.

2563/16 External landscaping at St Conleth's College.

3534/08 Third Storey Extension of St Conleth's College.

2550/09 Minor amendments to Permission 3234/08

PL29S.119212 0400/00 Permission granted for eight duplex apartments at Ardoyne House. Permission was refused for two duplex apartment to the south of the entrance driveway on ground of injury to property in the vicinity.

5.0 Policy Context

5.1 National Policy

5.1.1 Project Ireland 2040 – National Planning Framework

5.1.1.1 The National Planning Framework includes a specific Chapter, No. 6, entitled 'People Homes and Communities'. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.1.2 S28 Ministerial Guidelines.

- Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities. Department of Environment, Heritage and Local Government, May 2009.
- Urban Design Manual A best practice Guide. May 2009.
- Design Manual for Urban Roads and Streets, DMURS
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') Dept Environment Heritage and Local Government November 2009.

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities – Department of Housing Planning and Local Government March 2018
- Urban Development and Building Height Guidelines, Department of Housing Planning and Local Government, December 2018

5.2 Development Plan

5.2.1 The Dublin City Development Plan 2016-2022 refers. The site is zoned Z2 “*To protect and or improve the amenities of residential conservation areas.*”

There are no protected structures on the site but there are a number in the surrounding area particularly to the west on Pembroke Park and north on Clyde Road.

5.3 Natural Heritage Designations

5.3.1 The site is not located within or directly adjacent to any Natura 2000 sites. The closest such sites within 2km are :

The South Dublin Bay and River Tolka Estuary SPA (Site Code 004024)

South Dublin Bay SAC (Site Code 000210) are within the hydrological catchment of the site.

5.4 EIA Screening

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

6 The Appeal

6.1 Grounds of Appeal – Third Party Appeals

6.1.1 There are six no third-party appellant parties as follows:

- Olive Moran & Philip Dunne, 3 Pembroke Park.
- Michael McKay & Catriona Mullane. 2 Pembroke Park.
- Caitriona Ni Chuív, 9 Pembroke Park.
- Manahan Planners on behalf of Ardmews Management, Paramount Estates Limited.
- Upper Leeson Street Area Residents Association.
- Prof Margaret Hannan 1 Pembroke Park.

6.1.2 The grounds of third-party appeal raise a number of common objections and in the interest of succinctness I have summarised the grounds as follows:

- Alignment of apartment block is out of character on Pembroke Park.
- Insufficient space to retain mature landscaping. Landscaping plan is misleading. Significant impact of loss of mature trees.
- Overdevelopment.
- Height out of character.
- Balconies do not respect prevailing pattern of design and result in overlooking and noise disturbance.
- Mature dense evergreen hedging should be provided to south-eastern boundary. Permanent screening required to balconies.
- Provision of basement car park. Concerns regarding structural impacts and implications for landscaping.
- Height, scale, density and materials would give rise to significant adverse impact on the setting and enjoyment of the nearby houses.

- Historic boundary wall should be retained. Lycheigate is historic structure worthy of preservation.
- Drainage, flooding and high-water table. Swab stream culvert,
- Health and safety issues. Overlooking of school. Child safety risk.
- Negative impact on amenities and interests of Ardoyne Mews.
- Fact that the car parking requires stacking demonstrates nature as overdevelopment.
- Engineering services report devotes only one paragraph to the basement p 25. Reference to geotechnical ground investigations suggesting ground water at 3.6m below ground level.
- Removal of any or all development in rear part of the site would protect the amenities and create a better relationship to the adjoining lane.
- Significant concerns raised by the conservation officer and other departments are only addressed in part in response to request for additional information. Decision is unreasonable.
- Existing building is of architectural and artistic merit contributing positively to the streetscape along Pembroke Park. The building, garden, mature planting and boundary treatment are key contributors to the character of the area.
- Use of three storey glass atrium results in light and noise pollution. Avifauna impact.
- Traffic impact and hazard.

6.2 First Party Appeal Grounds

6.2.1 The first party appeal grounds are submitted by John Spain Associates accompanied by revised drawings by Henry J Lyons, a statement from Cathal Crimmins, Conservation Architect in relation to architectural appraisal and photomontages by Modelworks. The appeal relates to Conditions 5, Condition 6(a)(v) and Condition 14(d). Grounds of appeal are set out as follows:

- **Condition 5a** in relation to part a of condition 5 requiring the omission of the third-floor level from Block B, it is respectfully submitted that this requirement should be omitted by the Board as the third-floor level of Block B, as amended at FI stage is appropriate and of a suitably high standard of design to respond effectively to its context and surroundings. The proposal is not technically a mews development. rather the redevelopment of the nursing home site which also backs onto Clyde Lane therefore the provisions of Section 16.10.16 do not directly apply. In any case the revised proposals are in accordance with design guidance included under 16.10.16. Photomontages demonstrate the suitability of the four-storey element in the surrounding context. Change in height is achieved primarily via reuction in previously proposed floor to ceiling height at third floor level.
- Statement prepared by Cathal Crimmins notes that Clyde Lane particularly in the vicinity of the site does not constitute a traditional mews or coach lane. The extension to the rear of St Conleth's College, office building to the rear of 23-25 Clyde Road and the extension to the Rear of Engineers Ireland have server to erode the historic grain and character which this end of the laneway might once have held. The application of a condition to restrict development to a mews lane type scale is not warranted.
- Revised drawings with the appeal prepared by HJL architects illustrate a reduction in the height of the four-storey element of Block B where it faces Clyde Lane. This serves to further reduce the scale and massing of this element while providing for a corresponding further reduction in visual impact vis a vis the previous FI stage modifications. These changes can be conditioned by the Board if necessary.
- Accompanying photomontages prepared by Modelworks illustrate the four-storey element of Block B. The four-storey element of Block B has a limited visual impact and will not harm the setting of the nearby historic dwelling houses.
- As regards **Condition 5b** it is submitted that the reduction in the length of the terraces undertaken at further information stage was adequate to ensure that the profile of the existing roofline will remain legible. A further reduction in terrace length to 5m would have negligible impact on the appearance of the roof but would lead to a significant reduction in the amenity area available to the two apartments at second floor level within the existing building. Such a further reduction would limit light

ingress and prejudice the usability of the outdoor terraces. No clear rationale for reduction.

- Regarding **Condition 6**. Conservation Department Requirements it is respectfully submitted that part b(v) of Condition 6 be omitted as outlined in relation to condition 5a.
- **Condition 14**. Waste Management First Party seek removal of the following requirement “*Provision should also be made for the collection of glass (separated by colour) in bottle banks within the curtilage of the development. The total footprint of each of these banks is 4 metres by 2 metres wide. The location must be external, with the sufficient access and clearance for servicing using a crane.*” As the proposal is for 24 residential units within a managed development is it not proposed that any area of the scheme will be taken in in charge by the local authority. The provision of a stand-alone bottle bank is not warranted, as it would have a significant negative impact on the high-quality landscape design and there are several publicly accessible bottle banks in the vicinity.

6.3 Applicant Response

6.3.1 The First Party in response to the third-party appeals seeks to rebut the grounds of third-party appeal. The response includes four appendices including a drawing from OCSC providing detail of the proposed basement construction methodology.

Appendix 3 comprises HJL drawings illustrating the amended design of the Clyde Lane Block as amended by the drawings submitted with the first party appeal with additional detail and illustration.

- In relation to the building line, the design statement prepared by Henry JK Lyons Architects submitted with the application provides a clear and reasoned rationale for design and site layout. Proposed layout respects the precedent set by the existing St Mary’s Building while allowing development line to step gently towards the public realm in the site’s north-western corner.
- The consistent building line created by the 12 Victorian two storey dwellings on the eastern side of Pembroke Park while certainly a feature along the middle portion of the street can be seen to terminate at either end of the street. The graduation in the

building line has been carefully modulated to avoid an abrupt step forward towards the street. Note cue from building line at opposite end of Pembroke Park where the fenestrated end elevation of 7 Herbert Park steps forward towards the street of Pembroke Park. The proposed development effectively and sensitively remakes the corner of Pembroke Park and Clyde Road while serving as a bookend of the street with an appropriate level of scale and massing an appropriate relationship with the streetscape.

- In relation to overlooking of dwellings on the opposite side of the street the distance of c30m from the front façade of houses on the opposite side of Pembroke Park is noted. The provision of balconies along the frontage of the public street is appropriate in urban design terms to provide passive surveillance to the street.
- As regards 2 Pembroke Park to the south of the site the terraces face the gable end and side of rear garden with significant separation distance over 25m. Terraces on upper floors do not project significantly from the face of the building and generally replace existing windows on the façade therefore little marginal increase in the opportunity of overlooking arises. Proposal includes for planting along the southern boundary of the site including a row of trees along the boundary. Existing trees on laneway also provide for screening.
- In relation to the proposed balconies on the Clyde Lane block terraces face westwards and not towards the rear garden of 2 Pembroke Park. The existing development at Ardoyne Mews currently presents a significantly greater level of overlooking than the proposal could. Notwithstanding this should the Board consider it necessary the applicant would accept a condition for the proposed development to require that screens are provided on the southern side of the southern balconies on Clyde lane block.
- As regards impact on St Conleth's College. – Notably school in support of the development and careful consideration has been given in design to protect the privacy of the school.
- Refute claims that the proposal represents overdevelopment. The proposal for plot ratio of 0.9 and site coverage of 28.5% are in accordance with development plan standards. Density of 70 units per hectare wholly appropriate given the highly accessible location.

- The proposed development has been designed to integrate effectively with the surrounding neighbourhood including the historic buildings in the vicinity and on the site.
- Regarding design of the glass atrium concerns expressed with regard to light impact and injury to avifauna it is submitted that this light touch glass link is an important design feature. Lighting will not have significant impact on the surrounding area as this element is set back within the site and set behind street trees on Pembroke Park and planting within the site. Pembroke park is lined with street lights which remain lit throughout the night therefore any light which emanates from the atrium element will not have a material marginal impact.
- In relation to bird strike it is submitted that the depth and dimensions of this element of the structure make such occurrences unlikely.
- Regarding landscaping and loss of existing planting the landscaping proposals for the site have been significantly bolstered in response to further information. A significant number of larger more mature trees are provided as part of the planting scheme which will offset any loss of existing trees on the site. Sufficient build ups of soil are ensured including over the basement car park. Trees proposed include several with minimum height of over 9 metres with others with minimum heights of 5/6metres.
- Regarding drainage water infrastructure and flooding the construction of the basement will be managed via standard construction practice for construction of his nature. The use of secant piling will allow for the basement to be constructed with only temporary pumping of water which will not have an adverse effect on the surrounding water table. The project engineers have met with DCC Drainage Division to discuss the location of the culverted Swan River in the area. It has been confirmed that the culvert of the stream in the area is redundant and trial pits will be used to establish its location as part of the detailed design phase of the development.
- Pre connection enquiry submitted to Irish Water who are responsible or the combined sewer network. Irish Water have confirmed that there is sufficient capacity in the network to facilitate the development. Overland flow route has been specifically engineered to ameliorate any risk of water entering the basement car

park. Levels of the site have been informed by the need to avoid any risk of such eventuality.

- Regarding parking and traffic, the level is provided to ensure no overspill parking while also discouraging car usage to the greatest degree. The impact of the proposal on traffic in the local area will be negligible and imperceptible.
- Stacker system will allow for the efficient use of the basement space avoiding need for larger basement to accommodate car parking or the incorporation of significant areas of surface parking within the site.
- OCSC response asserts that the existing vehicular entrance at 3.8m in width is not sufficient for two-way traffic to safely enter and exit the site simultaneously. A width of 6.6m is appropriate with 1.4m section of wall allowing for flood route for surface water in the event of the gullies on the road becoming blocked.
- Basement construction will be by way of secant pile wall to be designed by specialist piling contractor to support the surcharge load from the adjacent Ardoyne Mews development. It is likely that the secant pile wall will be constructed using a continuous flight auger CFA which means the ground is continuously supported by the Auger (limiting ground movement) is relatively quiet and low vibration compared to other piling techniques. Vibration and movement monitoring will be carried out by the contractor during construction. A temporary bracing system will be installed to the existing St Mary's building external walls prior to removal of internal walls floor and roof structure. No adverse impact on stability or movement of adjacent Ardoyne Mews structure.

6.4 Planning Authority Response

6.4.1 The Planning Authority did not respond to the appeal.

6.5 Observations

6.5.1 Observations are submitted by a number of third parties as follows:

- Eugene & Joan Swaine, 15 Pembroke Park.

- Niall Power Smith, 13 Pembroke Park.
- Charles Normand 17 Pembroke Park.
- WR Matthews, 5 Pembroke Park.
- Herbert Park Area Residents Association.
- Ann Greene, 35 Pembroke Park.
- Colm Menton, 18 Pembroke Park.
- Noeleen Kenny, 7 Pembroke Park.

6.5.2 Observers outline objection to the development on the following grounds

- Over intensive development. Visually intrusive.
- Building line inappropriate.
- Landscaping impact. Significant loss of mature trees
- Monolithic structure.
- Traffic hazard. Parking congestion.
- Scale and design out of character.
- Light and noise disturbance
- Health and Safety Impact. Overlooking of school.
- Builders not constrained by plans.
- Conservation Officer's legitimate concerns were not given due consideration.
- Watercourses and flooding.
- Development is contrary to Z2 zoning objective.

6.6 Further Responses

6.6.1 Responses by a number of the third parties to cross circulation of first party response and third-party appeals including

- Caitríona Ni Chuív

- Professor Margaret Shannan
- Upper Leeson Street Residents Association
- Olive Moran and Philip Dunne
- Manahan Planners on behalf of Ardmews Management, Paramount Estates
- Caitriona Mullane and Michael McKay

6.6.2 The responses maintain objection to the proposal on a number of grounds:

- Fourth storey would be of sufficient size to be clearly visible above the level of the three storey blocks from Pembroke Park and Clyde Lane.
- Permission will set precedent for four storey development on site of 28A
- Four storey element in the National disability Authority – in reality the small structure at that level simply accommodates the lift shaft machinery.
- Sustainable development must be able to account of the integrated needs of a residential complex.
- Historic structures qualify the road to be zoned Z2 conservation area. Proposed building line would not integrate with the character of the surrounding area would harm the existing street patterns of Pembroke Park and would constitute a visually obtrusive and dominant form and would on this basis clearly contravene the provisions of the development plan.
- Building at the corner of Herbert Park is irrelevant to the streetscape.
- Balconies present an entirely different prospect to windows in terms if intrusion to established residential amenity.
- Privacy of students needs to be taken into account not only in relation to classrooms but also canteen, restrooms, sports halls.
- Note conservation officer's contention that the proposal by way of height scale density and material will give rise to significant adverse impact on setting and enjoyment of the nearby 19th and 20th Century Houses in the immediate environs and would be overly dominant in the streetscape.
- Landscaping outcome remains somewhat uncertain. Photomontage unrealistic.

- Concerns that the excavation and sealing of a large basement area below the level of the surrounding saturated ground will affect the adjacent properties or the historic structure to be preserved on site.
- Incorrect to state that DCC do not grant parking permits to apartments as this applies only in heavy demand areas while Pembroke Park is rated as a low demand area.
- Case for significant widening of entrance has not been substantiated.

7 Assessment

7.1 Having examined the file, considered the prevailing local and national policies, inspected the site I consider that the main issues can be assessed under the following broad headings:

- Principle of Development
- Density, height and design
- Residential amenity of the proposed units and impact on established residential amenity and the amenity of St Conleth's College.
- Servicing, traffic, parking & other matters
- First Party Appeal
- Appropriate Assessment.

7.2 Principle of Development

7.2.1 The site is within an area subject to the zoning objective Z2 Residential conservation area where the relevant objective is *"To protect and or improve the amenities of residential conservation areas"*. Residential development is permissible in principle within this zone. Having regard to the zoning and to the established use of the site as a residential care home it is considered that the proposal which involves the reuse of the existing St Mary's building to provide for a total of 8 apartment units is appropriate and in keeping with the zoning objective. The existing nursing home is located on a generous site and the proposal also involves provision of new

structures to accommodate 16 new apartment units. Clearly the proposed densification and provision for a modern standard of residential accommodation on the site is in accordance with the general policy desirability to increase densities within serviced urban areas in the interest of efficient land use resources and economies of scale.

7.2.2 I am of the opinion that given its zoning, the delivery of residential development on this prime underutilised site in a compact form is generally consistent with the policies of the Development Plan the NPF and Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness in this regard. On this basis I consider that the principle of redevelopment of the site for residential use is therefore acceptable in principle subject to detailed considerations of design, servicing and amenity. The impact of the proposal in terms of its scale and character residential amenity and other detailed considerations are explored further below.

7.3 Density, Height and Design

7.3.1 As regards assertions that the proposal constitutes overdevelopment, I note that the proposal provides for a plot ratio of 0.9 and site coverage of 38.5% which is in accordance with development plan indicative standards (Plot ratio 0.5-2 and Site Coverage 45%) The proposed development provides for a density of 67.8 units per hectare. In terms of mix the proposal for 24 apartments comprising 3 no 1 bed apartment (c12.5%) 16. No 2 bed apartments,(66.7%) and 5 no 3 bed apartments 20.8%. This should be considered in the context of National Guidelines which state that the greatest efficiency in land usage is in the range of 35-50 dwellings per hectare and recommends that net densities less than 30 hectares would generally be discouraged in the interest of land efficiency. Having regard to the infill nature and size of the site and proximity to established low density residential development , I consider that the proposed density can be considered acceptable in this context.

7.3.2 As regards the design concept and strategy I note the evolution of the design as outlined within the architectural design statement document by Henry J Lyons Architects. The existing St Mary’s building to be retained and remodelled forms the

central driver for the overall design strategy. The proposal seeks to ensure the restoration of the exterior of the existing structure and the more finely detailed internal fabric within the chapel element of the building while providing for a suitable standard of modern residential accommodation. In terms of layout the siting of the entrance to the underground car park at the location of the existing entrance seeks to minimise disturbance to streetscape or traffic activity. The placing of car parking at underground level seeks to maximise the opportunity on the site for landscaping. In terms of marrying old and new the provision of glazed link between the existing buildings and new block C to the north ensures a clear distinction whilst also maintaining links to external spaces.

7.3.3 As regards height I consider that the three-storey apartment fronting Pembroke Park which steps down to two storey at the north westerly corner is respectful in scale in terms of the historic structure and responds appropriately to the context. I consider that the proposal constitutes an innovative contemporary building which will integrate comfortably within the streetscape. I note the concerns expressed by the conservation officer regarding the height in excess of the eaves height of the historic St Mary's building and in relation to the established dwellings on Pembroke Park and the contention that it would dominate, overwhelm and adversely impact the setting of the historic structures. However, I consider that the design in terms of its form and mass and materiality respects the scale of the historic structure and maintains its primacy within the streetscape. As regards the presentation to Clyde Lane, I am inclined to concur with the first party that the proposal should not be constrained by the provisions of 16.10.16 of the Dublin City Development Plan with respect to mews laneway having regard to the nature of the proposed development which is not a mews dwelling and to the nature of the laneway. I consider that the revised proposal as set out within the response to the request for additional information which sought to reduce the visual impact by design and materiality achieves an appropriate standard and integrates successfully with the surrounding streetscape. I note that the revised submissions contained within the first party appeal achieve a reduction in height by reduction in floor to ceiling height at third floor level.

7.3.4 I consider that the proposal as set out achieves an appropriate balance between and achieving compact dense urban form as promoted within the Urban Development and Building Height Guidelines 2018 whilst integrating successfully with the established context and character.

7.3.5 As regards the matter of building line to Pembroke Park, I note the design strategy as set out in the Architectural Design Statement by Henry J Lyons. At Section 3.2 it is noted that the building line of the proposed structures along Pembroke Park modulates from the building line of the existing St Mary's and the established building line of dwellings on Pembroke Park (noted as building line 01). It is asserted that the subtle modulation allows the building line to gradually step forward and meet the building line set by the dwelling at the junction of Pembroke Park and Herbert Park. (building line 02). I note that a number of the third-party appellants and observers object to this element of the proposal and contend that the building line established by dwellings on Pembroke Park should be strictly maintained. I consider that whilst the consistent formal building line is indeed a strong feature of the established streetscape on Pembroke Park, given the location and nature of the appeal site and in the context of the proposal which seeks to provide for contemporary infill development on a serviced urban site, I do not consider that the layout should be constrained by the established building line and I consider that the proposed layout achieves an appropriate modulation which whilst having regard to the established building line and is in my view it is sufficiently distant from the dwellings on Pembroke Park to establish its own character without forming an unduly discordant intervention.

7.3.6 In relation to the impact on historic fabric, it is noted that the conversion of the building to individual residential units from its existing use as a nursing home is a challenge. The design team carried out a series of design development exercises with a number of layouts testing the possibility of maintaining the internal plan form. The plan seeks to rationalise the proposal with a plan which works within the envelope of the building but allows for alterations to the internal fabric which ensure that the units would be both contemporary in terms of the living spaces provided and also in terms of modern requirements for sound acoustics and structure.

7.3.7 As regards other elements of contention in terms of the design I note glass atrium provides an appropriate link between old and new and is not significant in terms of size and its recessed character will ensure that it does not dominate in visual terms. Night time lighting will not in my view give rise to significant visual impact. As regards the proposal to provide for the car parking at basement level, I consider that

this is a positive proposal which ensures that the landscaping strategy for the site can be maximised without extensive car parking detracting from the setting. I note concerns with regard to the loss of mature landscaping however I am satisfied that significant landscaping can be carried out to ensure that this loss is mitigated and suitable screening can be provided.

7.3.8 Having considered the design and layout I conclude that the proposal results in the creation of a quality residential development making for better use of zoned land whilst ensuring the retention and reconfiguration of the existing historic structure on the site which, although not a protected structure, is of architectural and historic merit. The proposed development also in my view responds appropriately to the specific constraints arising on the site, providing for a new contemporary character whilst protecting the specific interest of the residential conservation area. As regards the performance of the proposal to the 12 criteria for sustainable urban development as set out in the Urban Design Manual, I am satisfied that the proposed layout presents positively.

7.4 Residential amenity of the proposed units and impact on established residential amenity and the amenity of St Conleth's College.

7.4.1 In considering the issue of the residential amenity of the proposed residential units, I note that the floor areas of the proposed units are generously proportioned in terms of internal space standards and private open space provision and provide for a high-end standard of residential amenity. As regards mix the proposal provides a good mix. Of the overall 24 apartments the mix includes 3 no 1 bed, 16 no 2 bed, and 5 no 3 bed.

7.4.2 As regards the impact on outlook from dwellings on Pembroke Park to the west, the distance is sufficient to ensure that no significant impact on amenity will arise. On the matter of overlooking by upper floor balconies on the southern elevation of the existing building to 2 Pembroke Park to the south I note the separation distance

involved is 25m. The proposed terraces are generally replacing existing windows and therefore increased sense of overlooking is marginal. Given the separation distance and having regard to existing trees on the laneway and proposed landscaping, I consider that significant overlooking will not occur. As regards west facing terrace on the Clyde Lane Block I note that in response to the appeal the first party has suggested the possibility of screens to the southern side on the Clyde Lane Block and I consider that this is appropriate.

- 7.4.3 In terms of the impact on St Conleth's School I note the assessment of privacy and overlooking as set out within the Planning Report by John Spain Associates. The assessment focuses on the potential for overlooking from the school however also informs consideration of mutual impacts. In relation to the first-floor window to fitness suite I note the separation distance from nearest bedroom window of c 13m which is not directly opposing but set at an angle. Classroom windows at first floor level are also not directly opposing and within distance of 16m. It is considered that having regard to the orientation, distance and subject to suitable landscaping, the overlooking impact can be appropriately mitigated. In my view the interface is acceptable and child welfare is not compromised by reason of the proposed layout on the site.
- 7.4.4 As regards overshadowing, I note the Daylight, Sunlight and Overshadowing study report submitted by Integrated Environmental Solutions. In relation to the impact on the playground areas of St Conleth's College given location of the south of the college additional shading can be seen to the playgrounds and rear elevation of the college. Over 50% of the main playground area will receive at least 2 hours of sunlight on 21st March therefore complying with BRE 2011 guidance documents Site Layout for Planning for Daylight and Sunlight recommendations. The side playground area is below the guideline 50% achieving 46% however the cumulative area of the two playgrounds meets the standard.
- 7.4.5 As regards daylight analysis of the 16 points tested across St Conleth's college all but one have a vertical sky component of not less than 0.8 times their former value (that of the existing situation) in line with BRE Recommendations. The one point

where BRE recommendations shows a 33% reduction in VSC marginally outside the guidelines is an office which has dual aspect and so impact is limited.

7.4.6 As regards the interface with Ardmews residential development to the south east, I consider that the proposed design integrates appropriately. Whilst clearly the proposed development on the site will give rise to loss of mature landscaping and a change in outlook, it is considered that the proposed design mitigates the impact arising, and such change is to be expected within the urban area.

7.5 Servicing, traffic, parking & other matters

7.5.1 As regards operational traffic impact I note the Engineering Services Report submitted by O Connor Sutton Cronin OCSC which outlines that given the highly accessible nature of the site car parking is expected to primarily fulfil a storage role. I consider that the traffic impact on the surrounding road network is negligible. The proposal provides for car parking spaces predominantly at basement level with the exception of 2 no spaces at ground level adjacent to the vehicular entrance from Pembroke Park. Cycle parking is provided for 46 spaces within a secure area at ground level equating to 1.5 spaces per unit. I note that the provision of 27 car parking spaces exceeds the Development Plan standard of one per unit however this was argued on the basis of the number of larger 3 bed units and I note that Dublin City Council were satisfied by the proposal cognisant of the desire to ensure no overspill parking on the surrounding road. The use of the stacker parking system was deemed appropriate by Dublin City Council.

7.5.2 As regards open space the applicant proposes to pay a special development contribution in lieu of on-site provision of 10% public open space. Given the location of the site in close proximity to a number of amenities including Herbert Park it is considered that this is appropriate.

7.5.3 On the issue of drainage, I note that the application to Dublin City Council included an incomplete draft of a Site-Specific Flood Risk Assessment OCSC Consulting Engineers dated 1st March 2018. The submitted document runs to 7 pages and does

not include detailed flood risk and mitigation measures as referenced in the contents page². However, I note that from review of flood mapping data the site is not within indicative Flood Zone A and B. The issue of stormwater drainage is addressed within the Engineering Services Report which notes that the proposal will include stormwater attenuation designed for a 30- and 100-year storm event with an additional increase of 20% to allow for the effects of climate change. Landscaped podium slab areas will add additional attenuation. I note that in response to the third party appeals it is submitted by the applicant that investigations in regard to the culverted Swan River which runs through the St Conleth's School site and may be located at the St Mary's home boundary is redundant. Further trial pits are intended as part of detailed design. Existing overland flow route has been considered and is to be maintained to mitigate risk of pluvial flooding in the event of blockage or inundation of the existing surface water gullies on Pembroke Park.

7.5.4 As regards servicing a pre connection enquiry to Irish Water indicates that there is sufficient capacity on the network to cater for the proposed development.

7.5.5 As regards construction impacts, I note that there will be a degree of disturbance and inconvenience arising during the course of construction however given the short-term duration and subject to mitigation and standard good construction practice I consider that such impacts can be managed to ensure no undue adverse impact. As regards the basement construction the first party has indicated that the proposal involves a secant pile basement to the perimeter designed by a specialist piling contractor which will take account of the surcharge load from the adjacent Ardoyne Mews Development. It is likely that the secant pile wall will be constructed using a continuous flight auger which will ensure that the ground is continuously supported by the auger, thereby limiting ground movement, and is relatively quiet and low vibration relative to other piling techniques. Vibration and movement monitoring will be carried out during construction.

² I note that Dublin City Council confirmed by email that the Flood Risk Assessment provided to the Board is as that submitted to the local authority.

7.5.6 I consider that the application as set out is acceptable from a traffic and servicing perspective and subject to standard good construction practice can be implemented on the site without undue impact on the amenities of the area and is in accordance with the proper planning and sustainable development of the area.

7.6 First Party Appeal

7.6.1 As regards the first party appeal this relates to Condition 5, Condition 6(a)(v) and Condition 14(d). Condition 5a requires the omission of the third-floor level from Block B. As set out above I consider that the proposed development onto Clyde Lane should not be constrained by the provisions of 16.10.16 of the Dublin City Development Plan with respect to mews laneway having regard to the nature of the proposed development which is not a mews dwelling and to the nature of the laneway. I consider that the revised proposal as set out within the response to the request for additional information which sought to reduce the visual impact by design and materiality achieves an appropriate standard and integrates successfully with the surrounding streetscape. On this basis I consider the condition 5a is unnecessary.

7.6.2 Condition 5(b) requires the reduction in width of roof terraces to a maximum of 5m, Linked condition 6(a)(vi) requires “*Revised plans and elevations showing the width of the roof terraces at second floor level within the historic building at St Mary’s limited to 5m as a maximum.*” I consider that the reduction in length of the terraces at further information stage appropriately ensures that the profile of the existing roofline is legible and I consider that the imposition of a requirement to further reduce this terrace has not been justified. On this basis I consider that Condition 5b and Condition 6(a)(vi) should be removed.

7.6.3 As regards Condition 14 Waste Management, the first party appellant has requested the omission of the requirement for “*Provision for the collection of glass (separated by colour) in bottle banks within the curtilage of the development. The*

total footprint of each of these banks is 4metres by 2 metres wide. The location must be external with sufficient access and clearance for servicing using a crane.”

Having regard to the nature of the development and potential negative impact on amenity and proximity to a number of existing bottle banks it is considered that on-site provision of such an extensive bottle bank facility is unnecessary. Accordingly, I recommend revised wording.

7.7 Appropriate Assessment

7.7.1 As regards Appropriate assessment I note the submitted screening report by Openfield Ecological Services. The assessment provides screening for the South Dublin Bay and Tolka Estuary SPA and South Dublin Bay SAC and Poulaphouca Reservoir SPA. It is noted that there is no direct pathway to the Tolka estuary from the site and based on the distance there is no pathway for loss or disturbance associated with the features of interest of the SPA. There is a pathway from the site via surface flows to Dublin Bay via the river Dodder.

7.7.2 Having considered the submitted screening assessment and having regard to the nature of the proposed development and location within the built-up area and separation distance from Natura 2000 sites, significant effects are not likely to arise alone or in combination with other plans or projects that would result in significant effects to the integrity of the Natura 2000 network.

8 Recommendation

I recommend that planning permission be granted for the proposed development having regard to the reasons and considerations and subject to conditions as set out below.

Reasons and Considerations

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity and the policies of the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out

below, the proposed development would not detract from the character of the area would not seriously injure the amenities of adjacent residential neighbourhoods or of the property in the vicinity, would not be prejudicial to public and environmental health and would be acceptable in terms of traffic safety and convenience. The proposed development would therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and lodged with the application, as amended by the further plans and submitted on the 7th day of June 2019, and by the further plans and particulars received by An Bord Pleanála on 30th July 2019 except as may otherwise be required to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. Privacy screens shall be provided on the southern side of the Clyde Lane block. Details shall be submitted and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and in the interest of residential amenity.

3. Details, including samples, of the materials, colours and textures of all the external finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. (i) Details of the design of the 1.5m ground level opening to the front boundary wall to accommodate overland flow route shall be submitted to the planning authority for written agreement prior to the commencement of development.
- (ii) A full drawing survey including photographic record of all existing boundary walls shall be submitted to the planning Authority prior to the commencement of development. A detailed schedule for any repair and reinstatement works required to the walls shall be provided for written agreement. A method statement for the raking out and repointing of the stonework and all associated repair details shall be outlined. Details of the historic stone coursing, sizes and stone as well as mortar composition and colour shall be provided.

Reason: In the interest of preserving the architectural integrity and heritage value of the retained structures.

5. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall
- (a) notify the planning authority in writing at least four weeks prior to commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

6. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, no additional plant, machinery or telecommunications structures shall be erected on the roofs of any of the building; height shall any external fans, louvres or ducts be installed without a prior grant of planning permission.

Reason: In the interest of visual amenity.

7. No signage, advertising structures / advertisements, security shutters or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

8. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

9. 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.

10. Site development and building works shall be carried out only between the hours of 0700 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 order to safeguard the residential amenities of property in the vicinity.

11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

12. The landscaping scheme shown on drawing DN1805-RFIPP- Planting Plan, as submitted to the Planning Authority on 7th day of June 2019 shall be carried out within the first planting seasons following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased within a period of 5 years from the completion of the development 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 the interest of residential and visual amenity.

13. 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 social and affordable housing in accordance with the requirements of section 96 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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 for the area.

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

15. The construction of the development shall be managed in accordance with a construction and demolition management plan which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(a) Location of the site and materials compound including area identified for the storage of construction refuse

(b) location of areas for construction site offices and staff facilities

(c) Details of site security fencing and hoardings;

(d) Details of parking / transport facilities for site workers during the course of construction

(e) Details of timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.

(f) measures to obviate queuing of construction traffic on the adjoining road network

(g) Measures to prevent the spillage or deposit of clay rubble or other debris on the public road network;

(h) alternative arrangements to be put in place for pedestrians and vehicles in the case of closure of any public road or footpath during the course of site development works;

(i) details of appropriate mitigation measures for noise, dust and vibration and monitoring of such levels.

(j) Containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(k) Off-site disposal of construction / demolition waste and details of how it is proposed to manage excavated soil;

(l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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

16. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

17. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of public open space. The amount of the contribution shall be agreed between the planning authority and the developer, or in default of such agreement,

the matter shall be referred to the Board for determination. 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 updated at the time of payment in accordance with the changes in the Wholesale Price Index – Building and Construction (Capital Goods) published by the central statistics office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

- 18 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, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme.

Bríd Maxwell
Planning Inspector
18th November 2019