



An
Bord
Pleanála

Inspector's Report ABP306031-19

Development	Mixed Use development including 36 Apartments, Takeaway Restaurant, retail unit and all associated site works.
Location	39-42A Clanbrassil Street Upper, Dublin 2.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3955/19.
Applicant	Clopen Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party -v- Refusal.
Appellant	Clopen Limited.
Observers	(i) Paul Mullin, (ii) Geraldine Hall and Ciaran Rogers, (iii) Portobello Wharf Residents Association, (iv) Garden Terrace Committee, (v) Daniel Martin, (vi) Karen Hand and Francis Curren, (vii) Longwood Avenue Residents

Group, (viii) Christine Bond, (ix) Paola Merev, (x) Caroline Butler.

Date of Site Inspection

24th February, 2020.

Inspector

Paul Caprani.

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1.0 Introduction

ABP306031-19 relates to a first party appeal against the decision of Dublin City Council to refuse planning permission for a mixed-use development including 36 apartments together with a restaurant/takeaway, retail unit and all associated site works. Permission was refused for two reasons the first of which expressed concerns in relation to the design, scale and mass of the proposal which would constitute an overdevelopment of the site and would constitute an excessively overbearing structure which would seriously injure the amenities of the area and would result in excessive overlooking and overshadowing. The second reason for refusal related to concern that Block A would receive inadequate daylight and sunlight which would seriously injure the amenities of future occupants of the block. A large number of observations were submitted supporting the decision of the Planning Authority. The site is located at Clanbrassil Street Upper, Dublin 2.

2.0 Site Location and Description

- 2.1. The appeal site is located on the eastern side of Clanbrassil Street approximately 2 kilometres south of the city centre and approximately 100 metres north of the Grand Canal and Harold's Cross Canal Bridge (Robert Emmet Bridge). The junction between Clanbrassil Street and the South Circular Road (Leonard's Corner) is located approximately 200 metres to the north.
- 2.2. The site is roughly rectangular in shape and occupies an area of 0.115 hectares (1,150 metres). The site comprises of two separate plots which is separated by a small laneway, Orr's Terrace Lane. The southern portion of the site is the smaller of the two plots approximately 47 metres in length and 5 to 6 metres in width. This plot is bounded by Orr's Terrace Lane to the north, O'Reilly Cottages Lane to the south and Clanbrassil Street Upper to the west. It accommodates a small rectangular two-storey pitched roof structure fronting onto Clanbrassil Street together with a number of single storey out buildings and sheds to the rear. The larger plot located to the north between Orr's Terrace Lane and Garden Terrace Lane accommodates single storey vacant structure, which was previously used as a car sales showroom,

fronting onto Clanbrassil Street with vacant lands to the rear which were formally used as a surface car park.

- 2.3. The rear gardens of houses fronting onto Longwood Avenue are located to the rear (eastern boundary of the site). A row of single storey 19th Century cottages front onto Garden Lane directly north of the site and face directly onto the northern boundary of the site. A more recently constructed two-storey apartment block is located to the immediate east of the terrace of dwellinghouses adjacent to Longwood Avenue Lane. A restaurant is located to the immediate north of the site facing directly onto Clanbrassil Street.
- 2.4. The urban block to the south of the site accommodate a mixture of recently constructed apartment buildings, Harold Bridge Public House and Ken Lawford Car Showrooms. These car showrooms are located at the corner of the Grand Canal and Clanbrassil Street. Lands to the rear of the site accommodate a mixture of storage sheds and lock-ups, metal workshops and car mechanic workshops etc along Longwood Lane. These lock-up sheds are located at the end of the rear gardens of the houses fronting onto Longwood Avenue. Lands directly opposite the site on the western side of Clanbrassil Street accommodate a terrace of three-storey brick residential dwellings dating from the late 20th century and a number of vacant and somewhat derelict structures.

3.0 Proposed Development

- 3.1. Planning permission is sought for the following:
- The demolition of existing buildings, structures and hardstanding areas except for the existing two-storey structure in the southern portion of the site which directly onto Clanbrassil Street (No. 39 Clanbrassil Street).
 - As a replacement it is proposed to construct a mixed-use development accommodating 36 apartments with associated balconies and terraces, a takeaway restaurant unit and a shop/retail services unit. The development is to be accommodated in two blocks. Block 1 is located on the more southerly plot and is to accommodate a Part 2 storey building accommodating a takeaway restaurant at ground and first floor level and the provision of four apartment units to the rear.

- The larger plot to the north is to accommodate Block B (Block 2). It is proposed to provide a commercial unit to the front of the site facing directly onto Clanbrassil Street. A bicycle store (36 bicycle stands) to serve the residential accommodation is to be located to the rear of the commercial unit.
- Three two-bedroomed and two one-bedroomed apartments are also to be located at ground floor level. At first floor level it is proposed to provide six one-bedroomed and one two-bedroomed apartment. At second floor level it is proposed to provide one two-bedroomed apartment and seven one-bedroomed apartments. At third floor level it is proposed to provide four one-bedroomed and two no. two-bedroomed apartments. The fourth floor is to accommodate two one-bedroomed and two two-bedroomed apartments. These apartments are located in the southern portion of the block directly facing onto Orr's Terrace. An additional two apartments (one two-bedroomed and one one-bedroomed apartment) at the corner of Orr's Terrace and Clanbrassil Street.
- In terms of communal open space, a courtyard area is provided centrally at ground floor level adjacent to the northern boundary of the site. This occupies an area of 134 square metres. In addition, it is proposed to provide a communal open space roof garden above the apartments located to the rear of Block 2 adjacent to Orr's Terrace and Longwood Avenue Lane. This communal area of open space amounts to 185 square metres.
- In terms of external finishes, it is proposed to upgrade the existing façade at No. 39 Clanbrassil Street (building on the southern plot to be retained on site). The four two-storey two-bedroomed apartments to the rear of No. 39 and Block No. 1 is to comprise primarily of a selected brick façade with painted rendered inserts and double glazed windows. The two-storey units to the rear of No. 39 rise to a roof height of between 6.9 and 7.6 metres.
- The main block to the north (Block 2) incorporates similar external finishes. The height of the building ranges from just over 20 metres on the southern elevation facing onto Orr's Terrace Lane containing the five and six storey elements whereas the three-storey element fronting onto the lane to the north of the site rises to a height of c.11.6 to 12.9 metres.

- No Car Parking Spaces are provided for on-site.

4.0 Planning Authority's Decision

Dublin City Council refused planning permission for two reasons which are set out in full below.

1. *Having regard to the design, scale, mass and bulk of the proposal and the proximity of the development to adjoining properties, it is considered that the proposed development would constitute an overdevelopment of the site and would have an excessively overbearing, overshadowing and overlooking effect on adjoining properties. The proposed development fails to integrate or be compatible with the design and scale of adjoining buildings and as a result, would seriously injure the visual amenities of the streetscape and would have an adverse impact on the character of the area. The proposed development, would, therefore, by itself and by the precedent it would set for other development, seriously injure the amenities of property in the vicinity, would be contrary to the provisions of the development plan and would be contrary to the proper planning and sustainable development of the area.*
2. *It is considered that the number of apartments in Block A would receive inadequate daylight and sunlight given the proximity to Block B and would therefore seriously injure the residential amenities of future occupants/residents, and accordingly would be contrary to the proper planning and sustainable development of the area.*

4.1. Documentation Submitted with the Planning Application

- 4.1.1. The planning application was submitted on 6th September, 2019. It was accompanied by the following documentation.

A covering letter and a **Planning Report** submitted by Simon Clear and Associates. It sets out details of the planning policy pertaining to the subject site and its surroundings making specific reference to:

- The National Planning Framework.

- The Eastern Midland Regional Assembly and Regional Spatial and Economic Strategy.
- Urban Development and Building Heights Guidelines.
- The County Development Plan making specific reference to the development standards set out in the Plan.

The report also provides details in relation to community open space, storage facilities, car and bicycle parking, Part V and AA compliance.

- A **Design Statement** prepared by Douglas Wallace Architects. This statement sets out the location and site context and provides details of the proposal and the rationale for the proposal together within the overall design approach. The design statement also sets out the rationale for the unit sizes, the mix and orientation of the units on site as well as details of the materials and composition. It is argued that the positioning and massing of the proposed development is cognisant of the need to protect the amenity and privacy of adjacent buildings and it is concluded that the approach informing the design is successful in protecting amenity. The report also provides details in relation to open space and landscaping and the transport, car and cycle parking. In relation to car parking, it is stated that due to the favourable location of the site close to the centre of the city and its proximity to good public transport routes, it is proposed not to provide car parking on site. In relation to social housing it is noted that the proposed development, being a development of more than nine units on the site of greater than 0.1 hectares, that the Part V provisions apply. A meeting has taken place with Dublin City Council in this regard.
- Also submitted is a **Daylight and Sunlight Impact Report**. The report concludes that the average daylight factor (ADF) has been met for all the buildings surrounding the site and these include buildings backing onto the site at Longwood Avenue and the buildings to the immediate north of the site facing into Garden Terrace.
- With regard to the proposed apartments on site, the report concludes that all the rooms have a high average daylight factor with all in excess of twice the minimum requirements. The report also includes a Shadow Casting Analysis.

It notes that the BRE Guidelines recommend that at least half of private amenity areas should receive as an absolute minimum, two hours of sunlight on March 21st. The rear gardens for the houses selected were analysed particularly in relation to the dwellings at Longwood Avenue. It indicates that these gardens in every instance meet BRE standards.

- A **Civil Engineering and Structural Report** was submitted. It provides details of the surface water drainage system, the foul drainage system, the water supply and traffic engineering relating to the site. Section 3 of the report also provides a Site Flood Risk assessment. It concludes that there is a limited flood risk associated with the subject site.
- A separate report containing details of residential travel and **Mobility Management Plan** is also set out. It provides arguments for zero parking provision and details of the road network, public transport and local services and facilities within cycle and walking distance from the subject site. It argues that the proposal is well served in terms of its proximity to existing services and by high quality public transport routes.
- A separate report containing details of a series of **photomontages** from vantage points along Clanbrassil Street are also included.
- Details of a **Screening Assessment for Appropriate Assessment** was also submitted. It concludes that there is no likelihood of any significant effects on Natura 2000 sites arising from the proposed development, either alone or in combination with other plans or projects. It is therefore considered that a Stage 2 Appropriate Assessment is not required.

4.2. Observations

4.2.1. A number of observations were submitted primarily by residents located in the vicinity of the proposed site. The contents of all these observations were read and noted. The main issues raised related to:

- The overall height and scale of the development.
- Loss of light and daylight in the surrounding dwellings resulting from the proposed development.

- Visual amenity and overdevelopment of the subject site.
- Parking and traffic congestion.
- Disruption and noise pollution arising from construction activities.
- Property devaluation and other impacts on residential amenity.

4.2.2. I note that many of the observations submitted were submitted from residents of Longwood Avenue and Garden Terrace to the immediate north of the subject site.

4.3. **Internal Report**

4.3.1. A report from the Roads, Streets and Traffic Departments request clarification in relation to:

- How pedestrians and cyclists are to be accommodated in Orr's Terrace (submit details as to how deliveries are to be managed for the proposed development).
- Submit details as to how refuse collection is to be managed for the proposed development.
- Submit a preliminary Construction Management Plan for the development.
- Submit details as to how the double stack bicycle parking will operate within the bicycle store.
- Submit details of the proposed bicycle parking and ancillary facilities for the communal units included in the development.

4.3.2. The planner's report notes the various observations and submissions (31) which were received in relation to the application and notes the concerns contained therein. It also makes reference to the various policies contained in the National Planning Framework, the Urban Development and Building Height Guidelines and the Local Development Plan Policy. In terms of the overall density and height of the proposal, concerns are expressed that the development fails to respect and integrate with the surrounding character. It notes that the prevailing character of residential development to the north, east and west is generally two-storey. On this basis it is argued that the site does not lend itself to the heights proposed under the current application. The planner's report states that there is no objection to the proposed

materials to be used. However, it is considered that the design is not of a standard that is acceptable in the context of the architectural character and overall visual amenities. As such, it would seriously injure the visual amenities of the streetscape. Concerns are also expressed that there will be a degree of overlooking notwithstanding the fact that the fourth and fifth levels of the proposed development are set back from the dwellings on Garden Terrace. It is also considered that the proposal would be considered significantly overbearing from surrounding properties in particular from the rear/amenity areas of the dwellings to the north along Garden Terrace. The sunlight analysis shows that there will be significant impact on properties along Garden Terrace in terms of overshadowing with the entire garden area overshadowed for most of the daytime in March.

- 4.3.3. It is however acknowledged that the apartment exceeds the minimum size requirements and that 41% of the apartments are dual access and provide appropriate storage and private open space. Concerns are expressed in relation to the quality of the ground floor amenity space in the courtyard given the north facing aspect of the layout. The Planning Authority also have concerns regarding the amount of daylight that the four apartments in Block A will receive given the proximity of the windows to Block B. It is noted that the daylighting study does not include an assessment of the average daylight factor for three of these units.
- 4.3.4. In conclusion while, the Planning Authority has no objection to the principle of the development of the site for residential purposes given its location and its ability to provide for a denser form of development than currently exists. However, the development is not considered appropriate in its current form and constitutes overdevelopment of the site. On this basis Dublin City Council sought to refuse planning permission for the reasons set out above.

5.0 Planning History

- 5.1. The planner's report states that there is no recent and relevant planning history associated with the site.
- 5.2. Details of the pre-application consultation meeting which took place on the 22nd May, 2019 are contained in a pouch to the rear of the file. Issues raised in this pre-application consultation include the impact of the proposed development on the

amenity of dwellings along Garden Terrace and Longwood Avenue and the need to ensure that adequate daylight can penetrate habitable rooms of all the apartments. There is also a need to ensure that the overall height and massing does not impact on the surrounding properties.

6.0 Grounds of Appeal

- 6.1. The decision of Dublin City Council to issue notification to refuse planning permission was the subject of a first party appeal submitted on behalf of the applicant by Simon Clear and Associates. The grounds of appeal are outlined below.
- 6.2. It is noted that the application was the subject of a pre-application consultation and that the planner determining the current application, was different to that who conducted the pre-application consultations. The major issues identified in the pre-application consultation related to overlooking and car parking. The design was fine-tuned to ensure that there was no practical overlooking of adjoining premises. Furthermore, the lack of parking was not raised as an issue by the Traffic and Transportation Division of Dublin City Council. It is also noted that there were a number of errors and inconsistencies together with the use of out of date information contained in the planning report that informed Dublin City Council's decision. The planner's report incorrectly states that the site is located just south of the Grand Canal and is in fact located within the Inner City. This has significant implications as different policies apply to developments within the canal ring to those outside the canal ring. The planner's report makes no reference to the fact that to the immediate south of the site planning permission was granted for the development of apartments over a car sales at the corner of the canal in Clanbrassil Street which frames the entry into the inner city.
- 6.3. The planning officer's report is incorrect in suggesting that the level of overlooking onto the rear garden of Garden Terrace would be unacceptable. The grounds of appeal note that there are no rear gardens at Garden Terrace. It is also suggested that Longwood Gardens cannot be overlooked.
- 6.4. With regard to concerns in respect of overshadowing, it is stated that the dwellings on Garden Terrace are also overshadowed with the presence of a 3 metre high wall

and it is stated that the proposed development will not add significantly to the urban shadow context which already exists.

- 6.5. It is also argued that the planning officer's report is inadequate in the way it has assessed policy at all levels and reference is made to the various policy statements contained in the National Planning Framework, the Urban Development and Building Height Guidelines and the Dublin City Development Plan which would generally support the nature and scale of the development proposed in this instance.
- 6.6. The grounds of appeal then go on to address specifically the issues raised in the Planning Authority's reason for refusal.
- 6.7. With regard to the overbearing nature of the proposal, it is stated that the existing houses on Garden Terrace currently front onto a 3 metre high garden wall. It is suggested that the proposed development will not in any significant way alter the outlook from the front of these houses having regard to the narrowness of the lane and the proximity of the houses to the large 3 metre high wall. The development has also been designed so that its mass and visual impact is minimised when viewed from the lower scale Garden Terrace dwellings. The main volume of the building is kept as far away as possible from the northern boundary and incorporates an open courtyard area on the northern boundary so as to reduce the size and scale of the proposal.
- 6.8. With regard to overlooking, the development in no way creates overlooking conditions into any adjacent private external or internal spaces. The site is surrounding on all sides by the public realm and public streets and laneways. Furthermore, great care has been taken in the design to ensure that there is no adverse overlooking. The grounds of appeal go on to detail the design of the proposal and how mitigation measures have been incorporated to ensure that no overlooking arises onto adjoining lands surrounding the site.
- 6.9. With regard to overshadowing and daylight and sunlight impact, reference is made to the BRE Guidelines. It is acknowledged that the public lane and front gardens will be overshadowed on Garden Terrace. However, this short inner urban lane is currently overshadowed by the large wall along the northern boundary of the site and the evergreen foliage associated with disused warehouse structures in the vicinity. Furthermore, the site is located in an urban area and therefore the proposal will

inevitably cast shadows on adjoining sites. A separate report is attached detailing the daylight and sunlight analysis on Garden Terrace Lane. It is however acknowledged that the proposed development will give rise to some increase in shadow levels to the north. It is noted however that during the key summer months, when these outdoor areas are most utilised, there will be little or no impact on the gardens in question as a result of shadow casting. The analysis undertaken also demonstrates that all internal spaces of the houses on Garden Terrace will continue to receive adequate daylight when the development is constructed in full compliance with BRE Guidance.

- 6.10. Likewise, the rear gardens of all adjacent dwellings to the east on Longwood Avenue will comply with the BRE criteria at all key reference dates in both the existing and proposed scenarios.
- 6.11. With regard to integration, it is stated that the proposed development is located in a transition area between the more settled two to three storey streetscape to the north of Leonard's Corner and the evolving streetscape to the south towards Grand Canal Bridge. The current site accommodates inappropriately low scaled single storey and two storey buildings which detract from the quality of the area. The area to the south of the subject site is experiencing regeneration with contemporary architectural interventions such as the recent redevelopment of Ken Lawford Motors at the corner of Clanbrassil Street and Windsor Terrace. The layout of the proposed development rising from three to six storeys reflect the transition in building height along Clanbrassil Street.
- 6.12. With regard to the second reason for refusal, it is argued that this reason is factually incorrect. There is no evidence or analysis provided in the report to support the conclusion that existing daylight and sunlight levels would be inadequate due to the proximity of Block B. It is again reiterated that the average daylight factor analysis (ADF) carried out indicates that the apartments within Block A would comfortably exceed the minimum requirements in terms of average daylight factor by a factor of between two times and five times the minimum requirement. While the worst-case scenario for all the apartments fulfil the BRE minimum levels, it is deduced that all other apartments will also pass the criteria. This is why the assessment does not include an evaluation of ADF for every single unit. Such an assessment is not necessary when the worst-case scenario apartments pass the minimum standards.

Enclosed is an updated daylight and sunlight report from Digital Dimensions which demonstrates that all apartments and spaces within Block A are fully compliant with BRE Guidance requirements.

- 6.13. Notwithstanding the arguments set out above that the proposed development will not adversely impact on the amenities of the area, the applicant is nonetheless anxious to receive planning permission for the development and therefore a compromised design is set out in the grounds of appeal. In this regard the fourth and fifth floor of Block 2 are removed entirely and a full set of plans, sections and elevations have been prepared and submitted in the grounds of appeal. This would reduce the overall height of the development from six to four storeys and would significantly reduce the scale, mass and bulk of the development. In the revised proposal an increased roof garden is also to be provided at a revised location to the front/centre of the site. This exceeds the minimum requirement for the quantum of community amenity space which will enjoy 100% sunlight availability. The modification will reduce the number of apartments from 36 to 31. As the modification is for a reduction there will be no consequential requirement for re-notification.
- 6.14. Finally, the grounds of appeal provides further details in respect of the further information requested by Dublin City Council Roads and Traffic Department. This response is contained in a separate report submitted by the applicant's Consulting Engineers.
- 6.15. On the basis of the arguments set out above, it is requested that planning permission be granted for the development as proposed or as modified subject to the attachment of appropriate conditions.

7.0 Appeal Responses

It appears that Dublin City Council have not submitted a response to the grounds of appeal.

8.0 Observations

8.1. A total of 10 observations were received all of which object to the proposed development. These observations were received in the main from residents living in the vicinity of the site. The observations were received from the following:

- Paul Mullin
- Geraldine Hall and Ciaran Rogers
- Portobello Wharf Residents Associations
- Garden Terrace Committee
- Daniel Martin
- Karen Hand and Francis Curren
- Longwood Avenue Residents Group
- Christine Bond
- Paola Merev
- Caroline Butler

8.2. Many of the issues raised are similar in each of the observations submitted. For this reason, it is proposed to summarise the issues raised in group format below.

8.3. From the outset it should be noted that many of the observers do not object to the principle of some form of development on the subject site but in general object to the size, scale and form of the proposed development. The main concerns are:

8.4. Overbearing Impact

8.4.1. It is inappropriate to argue that the front gardens at Garden Terrace Lane being in the public realm, are therefore of less consequence in terms of overshadowing. The front gardens currently have an uninterrupted view of the sky. The c.10 metre high wall at either end of the Garden Terrace which will form part of the building will have a significant overbearing impact on the smaller cottages facing onto the northern boundary.

8.4.2. The grounds of appeal are incorrect in suggesting that the existing 3-metre stone wall will hide the bulk of the building. The residents of Longwood Avenue have

enjoyed the amenity of low-rise buildings since the houses were built in the mid to late 19th century. The observation submitted on behalf of the Longwood Avenue Residents Association include montages depicting the overall height and scale of the proposal as viewed from the rear gardens of the residents along Longwood Avenue. It is argued that even with the modifications proposed in the grounds of appeal, the proposed structure will nevertheless have an overbearing impact and will therefore be unacceptable.

- 8.4.3. The visual impact from the rear gardens on Longwood Avenue is unacceptable. The scale and volume of the buildings proposed is totally unsuitable for the prevailing density of the area.
- 8.4.4. The overall height and scale of the building is exacerbated by the excessive generous floor to ceiling heights which make the building higher than that associated with a typical four to six storey building.
- 8.4.5. A building of a similar size to that at the corner of Clanbrassil Street and the Grand Canal at Portobello Wharf would be more appropriate.

8.5. Overlooking Impact

- 8.5.1. The proposed apartment block incorporates windows and in some cases balconies on the eastern elevation of Block B. The suggestion that the laneway and sheds between the proposed Block B and the rear gardens of Longwood Avenue is just not sustainable. No. 46 Longwood Avenue is just four metres away from the east end of Block B. The rear gardens are an importance amenity area for the residents of Longwood Avenue.
- 8.5.2. The proposed communal roof garden will also give rise to overlooking of adjoining residences particularly the residents to the east and south-east of Block B. The front gardens of the dwellings on the garden terrace are the only amenity space available to the residents and will be significantly affected by the proposed development.

8.6. Overshadowing

- 8.6.1. The impact on the front gardens of Garden Terrace will be profound. Pictures submitted indicate that there is direct sunlight penetration to the front gardens and front elevations of the dwellings on Garden Terrace. It is argued that these gardens will be overshadowed throughout the day on a year round basis if the development

proceeds. Many of the cottages on Garden Terrace will be completely overshadowed at 2 p.m. in June as the shadow casting diagram submitted with the application testify. The fact that these front gardens are south facing makes the impact all the more significant.

- 8.6.2. Longwood Avenue will also be overshadowed as a result of the development. One observation suggests that the size and scale of the development will “give the sense of suffocation and a prison yard”. Block A (the southern block) will block direct sunlight into the lower ground floor of Block B due to its proximity and height.
- 8.6.3. The proposal will have a massive impact on the west facing gardens of Longwood Avenue.
- 8.6.4. Longwood Avenue is an important and historic residential area, its character and integrity should be respected.
- 8.6.5. The development plan places great emphasis on the need for natural light and sunlight in assessing applications for development.
- 8.6.6. The proposal does not provide adequate cross sections depicting the height of the development in the context of the existing dwellings at Longwood Avenue. The average daylight factor used in calculating the impact of the proposal on daylight levels is not an appropriate instrument to use in the case of existing buildings. The overshadowing will result in increased energy consumption for the buildings affected.

8.7. Impact on the Character of the Area

- 8.7.1. The proposal represents a massive inappropriate insertion on the existing urban fabric.
- 8.7.2. The Lawford building on the corner of Clanbrassil Street and Windsor Terrace was designed with the input of the residents of Longwood Avenue and while it constituted a statement for the entrance into the city it was not intended to set a precedent for similar type buildings. The Lawford building was designed as a ‘site-specific signature building’.
- 8.7.3. It is not accepted that the proposed development is a high-quality building which would enhance the area. The disposition and layout and orientation of the apartments at ground floor level on Orr’s Lane represents a poor level of amenity for future occupants. The proposal does not constitute a “light and airy building for future

residents to inhabit". The proposal lacks aesthetic features to redeem the visual impact. The proposed blocks are featureless.

8.7.4. The provision of 36 units is excessive and constitutes an overdevelopment of the subject site. It is out of character with the zoning provisions for the site.

8.8. Modifications Proposed

8.8.1. Many of the observations submitted soon consider the modifications to be unacceptable and even with the modifications proposed, the size and scale of the building is considered wholly inappropriate.

8.8.2. The proposal will result in 30 not 31 apartments as stated in the grounds of appeal.

8.8.3. The proposed modifications are significant and material and therefore should be re-advertised.

8.9. Parking

8.9.1. A number of observations express concerns in relation to traffic and congestion. The lack of parking will inevitably result in traffic blockages and will result in an overspill of parking into surrounding streets where parking is already at a premium. On-street parking associated with the scheme will lead to congestion and will impact on the operation of the Clanbrassil Street QBC.

8.10. Other Issues

8.10.1. In addition to the main issues raised in each of the observations submitted a number of ancillary issues were referred to and these are set out in detail below.

- It is considered that overall the proposal does not have an appropriate or functional layout to satisfy the amenity of future occupants.
- The proposal will give rise to anti-social behaviour particularly as the site is located in proximity to public houses and the laneways between the two blocks will be opened up.
- The site's location within the city centre it does not mean that the guidelines can be set aside.
- There are too many one-bedroomed apartments within the scheme.

- An Bord Pleanála previously refused a three-storey development on the site under Reg. Ref. 29S.215816.
- Having regard to the previous uses on site which included a garage and sales area the lands occupying the site may constitute contaminated lands and further land surveys are required in this regard.
- The construction activities on site could give rise to impacts in terms of structural integrity of surrounding buildings as a result of vibration. It is suggested that conditioned surveys should be carried out prior to any development on the subject site.
- The site would be better suited for two terraces of townhouses which would be more in keeping with the area.
- The construction activities will give rise to significant noise and disturbance.
- The proposal will give rise to light pollution.
- The proposal could impact on existing rights of way.
- The site and scale of the proposed could cause a wind tunnel effect on laneways surrounding the site.
- There is currently a bus stop outside the site. The proposal will give rise to additional people using the bus stop and as such could give rise to more anti-social behaviour along this section of Clanbrassil Street.
- The proposal will give rise to unacceptable noise and air quality issues.

8.11. Further Submission from Applicant

- A submission on behalf of the applicant was received from Simon Clear Planning Consultant specifically addressing the concerns raised by the Longwood Avenue Residents Group. It argues that a balance must be struck between developing brownfield infill sites at sustainable densities and the impact on surrounding amenity. The critically issue is whether or not such impacts are deemed to be so significant as to justify a refusal of permission.

- Reference is made to the BRE Guidance, and that the Guidance is not suitable as a rigid application for all developments. This Guidance, it is argued, is primarily aimed at lower density suburban development and should be used as flexible guidance and not a mandatory set of rules. The need for flexibility is also highlighted in the 'Urban Design Manual: A best Practice Guide' (DoEHLG) and the 'Sustainable Urban Housing: Design Standards for New Apartments' (DHPLG).
- Notwithstanding the need for flexibility, it is stated that a detailed assessment was undertaken in the case of the buildings most negatively affected (the houses along Garden Terrace), and it is argued that daylight and sunlight levels to these properties will all meet the BRE Criteria for Sunlight Levels. It is re-iterated that the front gardens to the north are in the public domain and therefore cannot be strictly regarded as private and are already somewhat overshadowed by the existing boundary wall. Some increase in overshadowing is an inevitable consequence of site redevelopment at more sustainable densities. Expectations of no change is not reasonable having regard to strategic policy for redevelopment of urban areas.
- Reference to the winter solstice for the purposes of assessing overshadowing is inappropriate. The BRE criteria indicates that shadowing assessments should be conducted by reference to equinox, not solstice conditions.
- In relation to overlooking it is stated that all relevant standards have been met. The separation distance between the windows of the proposal and the rear elevations of the houses on Longwood Avenue are in excess of 30 meters. The impact is also buffered by the presence of sheds along the laneway. The revised scheme submitted as part of the grounds of appeal follows the pattern for redevelopment along Clanbrassil Street.
- The building incorporates a stepped massing increasing towards Clanbrassil Street to minimise potential impacts in terms of being overbearing.
- The photomontages submitted as part of the Longwood Avenue Residents Group are according to the response are completely inaccurate and

unverified. It is argued that it should not be relied upon by the Board in adjudicating on the application. It is nevertheless argued that the removal of floors as proposed in the appeal will significantly reduce the impact in terms of mass, height and bulk.

9.0 Planning Policy Context

9.1. National Planning Framework

9.1.1. One of the key shared goals set out in the National Planning Framework is to achieve compact growth. This is sought by carefully managing the sustainable growth of compact cities, towns and villages. It is noted that the physical format of urban development in Ireland is one of the greatest national development challenges. Presently the fastest growing areas are the edges and outside our cities and towns meaning:

- A constant process of infrastructure and services catch up in building new roads, new schools, services and amenities and a struggle to bring jobs and homes together meaning that there were remarkably high levels of car dependents and that it is difficult to provide good quality transport.
- A gradual process of rundown of the city and town centre.
- Development which takes places in the form of greenfield sprawl extends the physical footprint of the urban area and works against the creation of attractive liveable high quality urban spaces in which people are increasingly wishing to live, work and invest.

9.1.2. A preferred approach would be the compact development that focuses on reusing previously developed brownfield land building up infill sites which may not have been built on before and reusing and redeveloping existing sites and buildings. National Policy Objective 3B seeks to deliver at least half of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick and Galway within their existing built up footprints. National Policy Objective 13 seeks that in urban areas planning and related standards including in particular building height and car parking

will be based on performance criteria that seek to achieve well designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes provided public safety is not compromised and the environment is suitably protected.

- 9.1.3. National Policy Objective 35 seeks to increase residential density in settlements, to a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

9.2. Rebuilding Ireland Action Plan for Housing and Homelessness

- 9.2.1. Pillar 3 of this national strategy seeks to build more homes by increasing the output of private housing to meet demand at affordable prices. In terms of housing supply requirements, it is noted that current completion levels must double in the next four years. It is also noted that there is a significant requirement to expand the build to rent sector which is not being catered for in the current construction levels. There is also a need to increase the level of social housing. The Rebuilding Ireland Policy emphasises the need to supply and build more homes with delivery of housing across the four Dublin Local Authorities.

9.3. Sustainable Urban Housing Design Standards for New Apartments

- 9.3.1. These guidelines note that in the short term to 2020 the Housing Agency has identified a need for at least 45,000 new homes in Ireland's five major cities more than 30,000 of which are required in Dublin City and suburbs. This does not include the additional pent up demand arising from undersupply of new housing in recent years. In broader terms there is a need for an absolute minimum of 275,000 new homes in Ireland's cities up to 2040 with half of these located within built up areas. This necessitates a significant and sustained increase in housing output and apartment type development in particular. Specifically, there is a need:

- To enable a mix of apartment types that better reflects contemporary household formation and housing demand patterns and trends, particularly in urban areas.

- Make better provision for building refurbishment and small scale urban infill schemes.
- Address the emerging build to rent and shared accommodation sectors.
- Remove requirements for car parking in certain circumstances where there are better mobility solutions to reduce costs.

9.3.2. In terms of identifying the types of locations within cities that may be suitable for apartment development the guidelines note the following:

- In central and/or accessible urban locations such locations are generally suitable for small to large scale higher density development that may wholly comprise of apartments. These include
 - sites within walking distance of the principle city centres or significant employment locations that may include hospitals and third level institutions,
 - sites within reasonable walking distance (i.e. up to 10 minutes or 800 metres to 1,000 metres) to or from high capacity urban public transport stops such as Dart or Luas, and
 - sites within easy walking distance i.e. up to five minutes to and from high frequency urban bus services.

9.4. **Urban Development and Building Heights - Guidelines for Planning Authorities**

9.4.1. These Guidelines again highlight the need for a development plan to place more focus in terms of planning policy and implementation on reusing previously developed brownfield land building up urban infill sites. It notes that increasing building height is a significant component in making the optimum use of the capacity of sites in urban locations where transport employment, services and retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include the positive disposition towards appropriate assessment criteria that will enable the proper consideration of development proposals for increased building height linked with the achievement of greater density of development.

- 9.4.2. It is acknowledged that taller build will bring much needed additional housing and economic development to well-located urban areas and that they can also assist in reinforcing and contributing to a sense of place within the city or town centre.
- 9.4.3. The Guidelines note that statutory development plans have tended to be overtly restrictive in terms of maximum building heights in certain locations and crucially without the proper consideration of the wider planning potential of development sites and wider implications of not maximising these opportunities by displacing development that are wider society and economy needs to other locations that may not be the best place to accommodate it. Such displacement presents a lost opportunity in key urban areas of high demand for new accommodation whether it is for living, working, leisure or other requirements in the built environment.
- 9.4.4. Planning policy must therefore become more proactive and more flexible in securing compact urban growth through a combination of facilitating increased densities and building heights while also being mindful of the quality of development and balancing amenity and environmental considerations. Appropriate identification and siting of areas suitable for increased densities and height will need to consider environmental sensitivities of the receiving environment as appropriate throughout the planning hierarchy.
- 9.4.5. Paragraph 2.8 notes that historic environments can be sensitive to largescale tall buildings. In that context Planning Authorities must determine if increased height buildings are appropriate in these particular settings.
- 9.4.6. Taking into account the foregoing, the specific planning policy requirement of the above guidelines under SPPR1 is
- *In accordance with government policy to support increased building height and density in locations with good public transport accessibility, particularly town/city cores, Planning Authorities shall explicitly identify through the statutory plans, areas where increased building heights will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.*

- 9.4.7. Special planning policy requirement SPPR2 states that in driving general increases in building heights, Planning Authorities shall also ensure appropriate mixtures of uses, such as housing, commercial and employment development, are provided for in the statutory plan context.

10.0 Development Plan Provision

- 10.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022. The subject site is zoned Z1 '*to protect, provide and improve residential amenities*'. Residential use is a permissible use under this zoning. A local shop is also a permissible use. A restaurant use is open for consideration.
- 10.2. Chapter 5 of the development plan relates to Quality Housing.
- 10.3. Policy QH5 seeks to promote residential development addressing any shortfall in housing provision through active land management and co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and underutilised sites.
- 10.4. Policy QH6 seeks to encourage and foster the creation of attractive mixed use, sustainable neighbourhoods which contain a variety of housing types tenures with supporting community facilities, public realm and residential amenities which are socially mixed in order to achieve a socially inclusive city.
- 10.5. Policy QH7 seeks to promote residential development at sustainable urban densities throughout the city in accordance with the core strategy having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- 10.6. Policy QH8 seeks to promote the sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and character of the area.
- 10.7. Policy QH18 seeks to promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and with each apartment development, and ensuring that suitable social

infrastructure and other support facilities are available in the neighbourhood, in accordance with standards for residential accommodation.

- 10.8. Policy QH19 seeks to promote the optimum quality and supply of apartments for a range of needs and aspirations, including households with children, in attractive sustainable mixed income, mixed use neighbourhoods supported by appropriate social and other infrastructure.
- 10.9. Section 16.7 relates to building height in a sustainable city. Dublin City Council acknowledges the intrinsic quality of Dublin as a low-rise city and its policy is that it should predominantly remain so. There was a recognised need to protect conservation areas and the architectural character of existing buildings, streets and spaces of artistic civic or historic importance. In particular, any new proposal must be sensitive to the historic city centre, the River Liffey and Quays, Trinity College, Dublin Castle, the historic squares and the canals.
- 10.10. It is important to protect and enhance the skyline of the inner city and to ensure that any proposals for high buildings make a positive contribution to the urban character of the city and create opportunities for place making and identity. In the case of low-rise areas (which the subject site is located) a maximum height of 28 metres may be permissible.
- 10.11. In terms of aspect natural lighting and sunlight penetration the development plan notes that daylight animates the interior and makes it attractive and interesting as well as providing light to work or read by. Good daylight and sunlight contribute to making a building energy efficient, it reduces the need for electronic lighting while winter solar gain and reduce heating requirements.

11.0 Planning Assessment

I have read the entire contents of the file, visited the subject site and its surroundings have particular regard to the Planning Authority's reasons for refusal, the grounds of appeal challenging these reasons for refusal and the contents of the various observations submitted supporting the Planning Authority's grounds of appeal. I consider the following issues to be critical in determining the current application and appeal before the Board are as follows:

- Principle of Development in the Context of Strategic Housing Delivery Considerations
- Height, Scale and Overbearing Impacts Arising from the Proposal
- Overshadowing
- Overlooking
- Impact on Character of the Area
- Parking Considerations
- Other Issues
- Proposed Modifications to the Proposal

11.1. Principle of Development in the Context of Strategic Housing Delivery Considerations

11.1.1. A fundamental consideration in adjudicating on the current application is the zoning provisions pertaining to the site. The subject site is zoned for residential development. The nature of the proposed development is therefore wholly compatible with the zoning provisions relating to the site. I further note that the provision of a retail unit on site is also permitted in principle under the Z1 zoning. The restaurant/take-away facility should be evaluated on its merits in accordance with the zoning objectives. The Board will note however that the restaurant/take-away facility is located on a major radial thoroughfare leading to and from the city where commercial, including restaurant activity and retail activity, are already established in the immediate area. The Board will note that the site to the immediate north of the subject site facing onto Clanbrassil Street accommodates a restaurant use. I further note that neither the Planning Authority nor the observations submitted expressed any major fundamental concerns in relation to the nature of the restaurant/take-away use proposed. The proposed development is therefore in my opinion compatible with the zoning objectives for the site.

11.1.2. With regard to more strategic considerations, there are numerous national planning guidelines which have been adopted in recent years and which, with the exception of Rebuilding Ireland, were adopted subsequent to the adoption of the Dublin City Development Plan. Therefore, the Board will be cognisant of the fact that many of

the policy statements contained in the National Planning Guidelines referred to above, supersede the policy statements contained in the development plan.

- 11.1.3. It is clear from these guidelines that there is an increased emphasis in maximising the development potential of sites, particularly in relation to housing within existing urban footprints. A major thrust of the National Planning Framework seeks a preferred approach for more compact development that focuses on reusing previously developed brownfield land and building up infilled sites within existing built up areas. The National Planning Framework seeks to encourage more people jobs and activity to be located within existing urban areas. It seeks to provide well-designed high-quality development that can encourage more people to live and work in close proximity. The Framework Plan seeks to deliver at least half of all new homes to be located in the five main cities particularly Dublin. The strategy concludes that *“it is clear that we need to build inwards and upwards rather than outwards”*. This means that apartments will need to become a more prevalent form of housing particularly in Ireland’s cities. National Policy Objective 35 seeks to increase residential density in settlements, to a range of measures including reductions in vacancy, reuse of existing building, infill development schemes, area or site based regenerations and increased building heights.
- 11.1.4. The Apartment Guidelines also highlight the need to provide higher density development in central or accessible urban locations and also identify the need to provide more than 30,000 units within Dublin City and its suburbs.
- 11.1.5. The need to provide more housing is also reflected in the Rebuilding Ireland Action Plan and the recently published Urban Development and Building Heights highlight the need for Planning Authorities to become more proactive and more flexible in securing compact urban growth through a combination of both facilitating increased densities and building heights although it is acknowledged that such developments also need to be cognisant of surrounding sensitive environments such as historic environments. It is noted that the area of Longwood Avenue and the wider Portobello area is a Residential Conservation Area and this is an important consideration when assessing the proposed development in relation to qualitative safeguards.
- 11.1.6. However, it is clear and unequivocal that government policy seeks to support increased building height and density in locations with good public transport

accessibility but particular in city cores. From a sustainable land use point of view, securing compact growth in urban areas as espoused in the various policy documents above significantly reduce adverse impacts on the environment by:

- Reducing the landtake and preserving agricultural land and habitats outside the urban area and creating a more distinctive urban rural divide.
- It also enables the utilisation of existing infrastructure which are available to serve these sites in terms of existing foul drainage, water supply, roads, footpaths, lighting etc.
- Incorporating residential development in close proximity to existing centres of employment will reduce the need to travel long distances particularly by private car and will reduce energy consumption and carbon emissions.
- Provision of higher density residential development within urban areas improves the viability of public transport services and enables and facilitates the provision of more frequent services.
- Enhancing public health by encouraging and facilitating more active lifestyles by creating a more walkable and cycle friendly urban environment.

11.1.7. Strategically the subject site has many attributes to accommodate the higher density development espoused in the Guidelines. The site is located within the canals and therefore within the city centre, an area identified for higher density development. The subject site is contiguous to a QBC which accommodates high frequency bus services. The subject site can avail of existing services in the vicinity including community, neighbourhood, retail and employment services and finally the proposal offers an opportunity to enhance and revitalise a prominent urban site located adjacent to a major thoroughfare entering the city.

11.1.8. Clanbrassil Street is a major radial route into the city centre. It incorporates a wide spacious thoroughfare which is capable, in urban design terms, to accommodate a building of a larger scale particularly fronting onto Clanbrassil Street. A smaller building in my view would be less appropriate in visual design terms as it would have little or no visual presence on such a wide thoroughfare and would give rise to a weak urban structure with considerable visual leakage.

11.1.9. The principle of high density development than that prevailing in the immediate area is in my view appropriate. In terms of strategic considerations, the provision of a quantum of development beyond that in the immediate vicinity is unequivocal and the site offers a good opportunity to provide a scale of development which is more reflective of the policies, provisions and objectives set out in the National Strategic Planning Guidelines in relation to housing and urban development referred to above. The wider strategic considerations are in my view of critical importance for the Board in determining the current application. However, I fully acknowledge that any wider strategic considerations must be balanced against the impact on surrounding residential amenity. A reasonable balance must be struck between the wider strategic objectives in relation to housing in urban areas and the need to protect the qualitative safeguards of surrounding areas.

11.1.10. The Qualitative Impacts arising from the proposal are assessed in more detail below.

11.2. Height, Scale and Overbearing Impacts Arising from the Proposal

11.2.1. All the observations submitted express concerns in relation to the overall height, mass and scale of the proposed block and all argue that the block in question will have an overbearing impact on surrounding residences. Block 1 on the southern section of the site rises to a height of two storeys while the larger Block 2 in the northern portion of the site rises to a height of three to six storeys. The three-storey element faces onto Garden Terrace and the building progressively steps up towards Orr's Terrace. The building also steps back from a six storey down to five storey from the front of the site facing onto Clanbrassil Street to the rear onto Longwood Lane Avenue. The stepdown in scale is not nearly as pronounced from east to west as it is from south to north. The applicant has in my opinion placed the greatest bulk of the building at the south-west corner at the furthest point away from the dwellings at Garden Terrace and the dwellings at Longwood Avenue.

11.2.2. Having regard to the various national policy statements above which seeks to increase building heights and increase densities on suitable sites within urban areas I do not consider that the provision of a three to six storey block facing onto a wide radial route leading to the city centre is generally appropriate in terms of scale and mass in my opinion. I re-emphasise the fact that there is an onus on the Board to

adhere to and implement national guidelines to provide more compact development at sustainable densities within the core and this would necessitate larger and higher buildings on modest size plots throughout the city centre. It is also my view that the applicant has endeavoured to place the tallest elements of the structure away from the most sensitive receptors namely the dwellings at Garden Terrace and the dwellings at Longwood Avenue. It is acknowledged that the block in question is considerably higher than the buildings surrounding it, and the buildings fronting onto Clanbrassil Street in the immediate vicinity of the site which for the most part are two storey. However, to provide a building on the subject site of a similar scale and mass to that which already exists along the street would in my view be totally inappropriate both in urban design terms and strategic planning terms. As referred to above Clanbrassil Street is a wide thoroughfare constituting one of the major radial routes from the city centre to the Harold's Cross area and beyond. The radial routes leading to and from the city centre are in my view the routes which are most suitable to accommodate a greater mass of development in order to reflect the size and width of the adjacent thoroughfare. It is in my considered opinion totally appropriate that when passing from the south inner suburbs over the canal into the city centre area that there would be a reasonable expectation that buildings within the canal rings would be of a greater scale and proportion particularly on the major routes leading to the city.

- 11.2.3. The subject site provides a key opportunity to develop the site at an appropriate scale and density in order to contribute to the achievement of the strategic objectives in relation to urban development as set out in the National Planning Framework, the Guidelines for Apartment Development and the Guidelines on Building Height referred to above.
- 11.2.4. Notwithstanding the arguments, above I fully accept that the proposed development will have a material impact in terms of constituting an overbearing structure on the existing dwellings at Garden Terrace. Garden Terrace is a very narrow laneway c.4 metres in width. Any development on the subject site other than a single storey development would in my opinion have to some extent, an overbearing effect on the dwellings in question. In amenity terms the only solutions to address the issue of overbearing impact on the dwellings at Garden Terrace is by keeping the northern portion of Block 2 completely free from development or incorporating a single storey

block along the northern boundary of a similar height to the existing wall along the northern boundary. Neither of these options in my view would be appropriate for the subject site and would result in a lost opportunity to develop the site at sustainable density standards. The applicant in my view has achieved a reasonable compromise by placing the three storey element along the northern boundary and also placing the communal open space within the central section of the site adjacent to the northern boundary thereby keeping the central element of the site contiguous to the northern boundary free from development.

11.2.5. In conclusion therefore, I do acknowledge that the proposed development will have a material impact on the cottages at Garden Terrace in terms of being somewhat overbearing. However, this impact must be balanced against the wider strategic objectives of developing city centre plots at sustainable densities. I would consider that any development above single storey is likely to have an overbearing impact on the dwellings in question having regard to the narrow nature of the laneway separating the site from the cottages in question. However, it is not tenable to develop the subject site with a two-storey development given its key location adjacent to a QBC within the canal ring.

11.2.6. In terms of overbearance I do not accept that the proposed block will have a significant overbearing impact on the rear of the dwellings facing onto Longwood Avenue. The separation distance between the rear of the dwellinghouses in question and the subject site is in excess of 30 metres. The three to five storey element to the rear of the block facing onto Longwood Avenue Lane ranges in height from 16 metres to 9.7 metres. I consider that 30 metres is a generous separation distance having regard to the inner city location of the site. I would again reiterate that a three to five storey building within an urban area cannot be considered unusual and the separate distance between the building in question and the residents at Longwood Avenue would be such that the proposal would have a minimum impact in terms of being overbearing. One of the observations suggested that there is a mere 4 metre separation distance between the observer's dwelling and the block in question. It would be more appropriate to suggest that the 4 metre separation distance relates to the rear elevation of the proposed building and the rear boundary of the observer's garden. There can be no doubt that the proposal will have a visual presence when viewed from the rear gardens of Longwood Avenue but to suggest that the height

and scale of the proposed development will have an unacceptable overbearing impact is not accepted in the context of the site's urban location.

- 11.2.7. It is not in my view a reasonable expectation that there is no material change in the receiving environment surrounding the observers dwellings, having regard to national guidelines and the site's city centre location.
- 11.2.8. Finally, in relation to this matter I will bring the Board's attention to the National Planning Framework Guidelines in relation to performance based design standards. It notes that *"to enable brownfield development, planning policies and standards need to be flexible, focusing on design led performance based outcomes rather than specifying absolute requirements in all cases. Although sometimes necessary to safeguard against poor quality design, planning standards should be flexibly applied in response to well designed development proposals that can achieve urban infill and brownfield development objectives in settlements of all sizes. This is in recognition of the fact that many of the current urban planning standards were devised for application to greenfield development sites and cannot account for the evolved layers of complexity in existing built up areas"*.
- 11.2.9. The National Planning Framework goes on to state that in general restrictions on building heights are universal standards for car parking or garden size may not be applicable in all circumstances in urban areas and should be replaced by performance based criteria appropriate to general location e.g. city/town centre, public transport hub, inner suburban, public transport corridor, etc.
- 11.2.10. The applicant in my view has shown due regard to the amenities of adjoining residential areas in terms of placing the high elements of the proposal away from residential receptors while at the same time having regard to the need to develop the infill site to its maximum potential in accordance with strategic requirements.

11.3. **Overshadowing**

- 11.3.1. Overshadowing is a significant issue in adjudicating upon the current application. The replacement of an existing single storey structure on the more northerly site and its replacement with a three to six storey structure will inevitably give rise to greater levels of overshadowing. As in the case of overbearing, the impact on the dwellings on Garden Terrace will be greater than that associated with the houses on Longwood Avenue. Documentation submitted with the application assesses the

average daylight factor for the ground floor rooms on Clanbrassil Street Upper and Longwood Avenue. The assessment indicated, particularly in relation to the dwellings on Longwood Avenue, that the minimum requirements in the BRE Guidelines would be met. In the case of No. 46 Longwood Avenue the closest building on Longwood Avenue to the subject site the average daylight factor would be three to four times the recommended minimum.

11.3.2. In terms of overshadowing, the BRE Guidelines recommend that in terms of amenity, at least half of the private amenity area should receive at least two hours of sunlight on March 21st. I refer the Board to Table 5 (page 12) of the Digital Dimensions Report submitted with the application. It indicates that the rear gardens at Longwood Avenue would comply with these minimum requirements. It is further noted that in the case of 43, 47 and 48 Longwood Avenue there would be no material change in terms of the percentage area of amenity space that receives two or more hours of sunlight on March 21st and that in the case of 44, 45 and 46 Longwood Avenue the percentage change would be negligible. It is acknowledged however that the shadow casting diagrams clearly indicate that there will be a greater level of overshadowing in the evening time at vernal equinox and a greater level of overshadowing will also occur during the late evening time.

11.3.3. With regard to the dwellings to the north of Garden Terrace the impact will certainly be more profound. The appellant argues in the grounds of appeal that the front gardens of Garden Terrace were not assessed on the basis that the gardens face onto a public lane and are all front gardens and therefore do not constitute rear or private amenity areas for the purposes of BRE Guideline assessment. I would reject that assertion on the basis that the lane in question constitutes a cul-de-sac and that the front gardens constitute important amenity areas for the dwellings in question. The overshadowing impact arising from the development will in my view be profound with the addition of a three-storey structure within four metres of the gardens in question. I reiterate however that the applicant has endeavoured to minimise the impact by placing the three storey element of the building along the northern boundary and keeping a substantial portion of the central part of the northern boundary free from development in order to reduce the overbearing / overshadowing impact of the development. The front gardens of the dwellings in question will be overshadowed throughout the day on the vernal equinox according to the shadow

casting diagram submitted. The gardens will receive direct sunlight penetration during the early more during mid-summer. The dwellings which are centrally located within the terrace will receive direct sunlight at midday and the front gardens of the dwellings will receive some level of direct daylight penetration during the afternoon and later in the evening time. It is however fair to conclude that the front gardens of the dwellings are Garden Terrace would not meet within the BRE Guidelines.

- 11.3.4. As already stated in my assessment it is likely that an order to comply with the guidelines (the Board will note that these are guidelines only and not mandatory requirements), it would necessitate a single storey structure to be located on either the whole site or a substantial portion of the northern part of the Block 2 site. Developing the subject site at such a low density would be unjustifiable and untenable in my view having regard to the strategic requirements to develop urban sites at higher sustainably densities. I would also reiterate from an urban design perspective it would be totally inappropriate to develop the subject site with a single storey/two storey structure.
- 11.3.5. In terms of average daylight factor for the dwellings fronting onto Garden Terrace, it is clear that the average daylight factor in the case of each dwellinghouse will be reduced as a result of the proposed development (see Table 2, Page 6) of daylight and sunlight report submitted with the application. However, the average daylight factor received in the front rooms of the dwellinghouses in all cases meet the minimum recommended requirements and are therefore in my view acceptable. It was suggested in one of the observations submitted that average daylight factor is not an appropriate tool to use in the case of existing dwellings. I do not accept that this is the case. The average daylight factor can be assessed in the case of existing dwellinghouses and the assessment undertaken submitted as part of the application indicate that the average daylight factor post development would meet the criteria.
- 11.3.6. In conclusion therefore, in relation to overshadowing and the daylight penetration, I am satisfied that the proposed development will have a negligible impact on the dwellings and rear gardens at Longwood Avenue. The impact in relation to overshadowing will be more profound on the dwellinghouses at Garden Terrace to the north. However, any impact in terms of overshadowing needs to be balanced against the wider strategic requirements of developing inner city sites at higher sustainable densities incorporating more compact forms for reasons already outlined

above. The ADF for the internal areas for the buildings on Garden Terrace will meet minimum standards. An important consideration also is the fact that the front gardens of the dwellings on Garden Terrace will receive direct levels of sunlight penetration at various points throughout the day during the summer period when residents are most likely to enjoy the amenity of their private gardens due to more favourable weather conditions and higher temperatures.

11.3.7. One of the observations submitted suggests that the lower floors of Block 2 on the southern elevation will experience poor amenity due to the level of overshadowing will take place from the two-storey development proposed between O'Reilly Cottages and Orr's Terrace to the south. Orr's Terrace is another narrow laneway and the shadow casting diagrams for the vernal equinox indicate that this laneway and the southern boundary of Block 2 is perpetually overshadowed during the vernal equinox. The overshadowing arising from the proposed development will not be significantly accentuated or exacerbated as a result of the proposed development. Furthermore, to suggest that a two-storey structure within an urban area should be prohibited on the basis of the shadow cast is simply not tenable.

11.4. **Overlooking**

11.4.1. The subject site is located in an urban area with a tight urban grain and numerous buildings in close proximity. It is inevitable therefore if the subject site is to be redeveloped that some level of overlooking will arise. The key question before the Board is whether or not the level of overlooking can be considered acceptable in terms of its impact on adjoining amenity. As already mentioned the building is designed so that its lower elements are located in close proximity to the surrounding residential areas. There are external terraces on the north, east and south elevations which could potentially give rise to overlooking. However, it is noted that in the case of the north elevation the balconies incorporate obscure glazing and are in excess of 1.75 metres in height. Likewise, the roof garden incorporates obscure glazing which would also mitigate against the potential for overlooking particularly into the rear gardens of Longwood Avenue. It should also be noted that the separation distance between the east elevation of the proposed block and the rear elevations on Longwood Avenue is in excess of 30 metres. It is therefore c. 10 metres above the minimum requirements for separation distances of 22 metres in the case of suburban areas. It is slightly below the standard in the case of separation distances between

multi-storey structures above two storeys (35 square metres). However, the Board will note that the site is located within the city centre and therefore the rigid standards set out for suburban area do not apply. I reiterate that with guidelines referred to above as well as the Dublin City Development Plan suggests that in the case of developing infill brownfield sites more flexible standards together with innovative design should be applied when adjudicating on applications on these sites.

11.4.2. In relation to the northern elevation of Block 2 the applicant is not proposing to incorporate any windows directly facing onto Garden Terrace. The external terraces to serve Apartments Nos. 7 and 8 face inwards towards the internal courtyard and not onto Garden Terrace. In relation to the internal recessed area facing northwards onto Garden Terrace the windows serving this element of the proposal serves the internal corridor and to living accommodation.

11.4.3. I think the applicant has incorporated appropriate design elements in order to minimise and in most cases prohibit the potential of overlooking of adjoining dwellings. It is clear that the applicant gave due consideration to the issue of overlooking in informing the design and overall layout of the development.

11.4.4. It is my considered conclusion therefore that the proposed development will have an acceptable impact in terms of overlooking.

11.5. Impact on Character of the Area

11.5.1. Many of the observations submitted argue that the proposed development is totally incongruous and out of place with the existing character of the area. Presently I consider that the proposed development may well be at odds with the prevailing lower density development widespread in the area. However, this area is undoubtedly evolving. Sites in the vicinity have been the subject of recent redevelopment including Ken Lawford Motors to the south of the site. The redevelopment of this site resulted in a higher quantum of development from that which previously existed. It is likely that other sites in the vicinity will at some stage in the future be the subject of regeneration proposals. There are a number of sites along Clanbrassil Street to the north of the canal which are prime sites for redevelopment. It is likely that any such redevelopment that takes place will be at a higher density and mass than that currently on the site. These include sites to the

immediate south of the subject site and sites directly opposite on the western side of Clanbrassil Street. While there is undoubtedly a need to take cognisance of the nature and character of the surrounding area it is also incumbent upon the Board to have regard to the wider strategic objectives for the redevelopment of urban sites close to the city centre. I reiterate that it is my opinion that a three to six storey building on the subject site would not be inappropriate and would be appropriate for a city centre area.

11.5.2. Another key consideration in assessing the impact of the proposal on the character of the area is the fact that the site is located contiguous to a designated Residential Conservation Area. Many of the observations submitted were from residents of Longwood Avenue which is governed by the zoning objective Z2. Both the Development Plan and the Guidelines for Planning Authorities on Urban Development and Building Heights stress that the importance in being careful to locate largescale and tall buildings in the vicinity of historic environments such as residential conservation areas. The Board will note that the subject site is not located within a Residential Conservation Area but adjacent to Residential Conservation Area. Furthermore, the subject site is not intrinsically connected with the Residential Conservation Area and addresses Clanbrassil Street as opposed to Longwood Avenue. While the building may be visible from certain vantage points along Longwood Avenue it would not in my view significantly detract from the setting or integrity of this residential conservation area.

11.6. Parking Considerations

11.6.1. It is not proposed to provide an off-street car parking associated with the development. While the Roads, Streets and Traffic Department of Dublin City Council had a number of concerns in relation to the proposed development (and these concerns have been addressed in the grounds of appeal submitted), none of the concerns specifically related to the lack of car parking provided. The design standards for new apartments are clear and unambiguous in stating that in larger scale higher density developments comprising wholly of apartments in more central locations and that are well served by public transport that the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The National Planning Framework (Page 67) notes that “there should be also generally no car parking requirements for new development in or near

the centres of the five cities, and a significantly reduced requirement in the inner suburbs of all five". The subject site, being located between the canals and immediately adjacent to a quality bus corridor on a major radial route serving the city is appropriate in location terms to justify the provision of no car parking. The observers express concern that the proposed development will result in on-street parking which will exacerbate traffic congestion in the area. In the first instance it is not proposed to provide any car parking on site as such the proposed development will not in any way exacerbate or accentuate traffic congestion in or around the site.

11.6.2. With regard to on-street parking, it is noted that the roads immediately surrounding the development, prohibit any on-street car parking. And while on-street car parking provision is provided on Longwood Avenue and surrounding streets, this parking is pay and display and permit parking only. Having regard to the control parking in the wider vicinity there is little opportunity for exacerbating on-street car parking problems arising from the development. Any future occupiers/purchasers of the apartment blocks will be aware that no parking is available. The proposed development is therefore likely to attract the increasing numbers of residents within Dublin City that do not own or have access to the private car. There is a growing and substantial portion of city centre residents that do not have access to, or indeed have any desire to own a car. The proposal will facilitate their needs.

11.7. Other Issues

11.7.1. Concern is expressed that the proposed development will give rise to anti-social behaviour particularly along the laneways late at night. As part of the proposed development it is intended to carry out environmental improvements on the laneways in question. Furthermore, with the development in place the laneways in question will experience greater levels of passive surveillance which should mitigate against any anti-social behaviour.

11.7.2. One of the observations submitted suggest that guidelines pertaining to the development of the site have been set aside due to the site's city centre location. I have argued the opposite above. I consider that the quantum, scale and density of the proposal has been fully informed by the most recent and relevant guidelines adopted at a national level.

- 11.7.3. Submissions also argue that the application places too high an emphasis on the provision of one-bedroomed apartments. The apartment guidelines suggest that the development plan should provide for greater flexibility in respect of dwelling mix in small scale building refurbishments and urban re-infill development schemes. In the case of the current application 22 of the 36 apartments are one-bedroomed apartments. The National Planning Framework notes that the population is changing rapidly with average households becoming both smaller in size as increasing numbers of people seek to live independently particularly in the latter years.
- 11.7.4. It is argued that An Bord Pleanála previously refused a three-storey development on the subject site under Reg. Ref. 215816. This application related to planning permission for balconies facing west together with the retention permission for an additional bedroom to Units 1 and 2 and additional minor alterations at 8-8A Garden Terrace, Clanbrassil Street. The application therefore related to a structure to the north of the subject site and not the subject site. The decision of the Board which upheld Dublin City Council's decision to refuse was made 14 years ago and therefore in the absence of the most up-to-date strategic guidance documents. I therefore do not consider that any decision made by the Board under PL29S.215816 constitutes a relevant precedent for informing the current application and appeal before the Board.
- 11.7.5. It is suggested that a contaminated land survey would be required having regard to the previous uses on the site. It appears that the site in question was used as a car showrooms and as a garage. These uses are unlikely to contaminate underlying land. Any contaminated land issues are therefore very unlikely to arise. However, should they arise they can be adequately dealt with by way of a construction management plan.
- 11.7.6. With regard to the potential impacts of the proposal on the structural integrity of buildings in the vicinity, it is not proposed to provide basement levels in this instance and therefore the level of excavation on site would not be so significant as that associated with a development that incorporated an underground basement. Urban redevelopment takes place throughout the city on an on-going basis and standard mitigation measures can be put in place to ensure that the structural integrity of surrounding buildings will not be adversely affected.

- 11.7.7. Concerns are also expressed that the construction will give rise to significant noise and disturbance and air pollution. Again, construction activity takes place throughout the city in the course of redeveloping sites. The construction activity inevitably gives rise to some level of noise and disturbance. However, this impact is temporary and mitigation measures can be employed in a construction management plan to ensure that any such impacts are minimised.
- 11.7.8. It is argued that the proposed development will give rise to light pollution and a wind tunnel effect. It is not tenable to argue in an urban area where large amounts of artificial lighting already exist that the proposed development would give rise to a level of artificial lighting which would be unacceptable on surrounding residential amenity. Likewise, the provision of a three to six storey building will not alter the micro climate and wind regime to the extent that it would give rise to a significant wind tunnel effect such as to constitute reasonable grounds for refusal.
- 11.7.9. There is nothing to suggest that the proposed development will exacerbate potential anti-social behaviour at the bus stop to the front of the site.
- 11.7.10. While concerns are expressed in relation to the potential impacts on rights of way along the laneway, the applicant in the current application has not sought the provision of a right of way or an extinguishment of a right of way as part of the proposal. Where such alterations sought these would be subject of a separate application and would be adjudicated on their merits.

11.8. Proposed Modifications to the Proposal

- 11.8.1. The applicant has argued in the grounds of appeal that the proposed development is fully in accordance with the proper planning and sustainable development of the area and would not have an undue adverse impact on surrounding residential amenity by virtue of overshadowing, overlooking, overbearing etc. However, the grounds of appeal suggest that should the Board be inclined to support the decision of the Planning Authority, a modified proposal has been put forward whereby the fourth and fifth floor of Block 2 are removed entirely. The observations submitted on foot of the grounds of appeal argue that the modifications proposed are also deemed to be unacceptable primarily on the basis that the development incorporating the proposed modifications would still have an unacceptable impact on the residential amenities of the area.

- 11.8.2. I would recommend that the Board consider granting planning permission for the proposal in the absence of the modification suggested. I have argued above in my assessment that the proposed development is generally in accordance with the proper planning and sustainable development of the area and complies with the wider strategic goals of providing more sustainable higher density development in a more compact form within existing urban locations. The proposed development represents an opportunity to provide a development at an appropriate density within a key site which is imminently suitable for regeneration within the city centre. I have argued that the proposed layout in this instance represents a well-conceived performance-based design which maximises the development potential of the site while generally respecting, as is far as practically possible, the residential amenities of surrounding areas while fulfilling the objective of providing higher density development.
- 11.8.3. The Board in my considered opinion if it were to accept the modifications proposed would miss a key opportunity in developing the subject site in accordance with the policy documents referred to above. Residential development on the subject site may have the longevity of decades or longer before any subsequent redevelopment opportunities again arise. For this reason, it is in my opinion appropriate that the site should be developed at its maximum potential in accordance with current strategic goals. It is clear from the observation submitted, that even with the proposed modifications, that these modifications would not in way allay the concerns of the observers' submissions in respect of the application.

12.0 **Conclusions and Recommendation**

Arising from my assessment above, I consider the proposed development to be fully in accordance with the proper planning and sustainable development of the area and in accordance with the strategic objectives set out in various policies documents including the National Planning Framework, the Design Standards for New Apartments and the Guidelines for Planning Authorities on Urban Development and Building Heights. It is acknowledged that the proposed development will give rise to diminution in amenity for residents living in close proximity to the site particularly the residents of Garden Terrace to the immediate north of the site. However, I further consider that, on the whole, the proposed development will comply with the minimum

and acceptable standards in relation to overlooking and overshadowing and therefore, having regard to the wider strategic necessity to provide additional residential units within the city centre and the need to provide such units at higher more sustainable densities, the proposed development is on balance, appropriate for the subject site. On this basis I recommend that the decision of Dublin City Council be overturned and that planning permission be granted for the development on the basis of the original design submitted to the Planning Authority and in the absence of any modifications suggested in the grounds of appeal.

13.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving environment together with the proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

14.0 EIA Screening Determination

Having regard to the nature of the proposed development comprising of 36 apartments, a retail unit and a take-away restaurant the proposed development falls well below the mandatory thresholds in terms of the number of units provided and also falls well below the overall size of an urban site for which a mandatory EIA is required. It is therefore considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can therefore, be excluded by way of preliminary examination.

15.0 Reasons and Considerations

Having regard to the Z1 residential zoning objective pertaining to the site and the policies and provisions contained in the National Planning Framework, the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018) and the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities (March 2018) which seek to provide urban

development including residential development at more compact and sustainable densities to enable people to live nearer to where jobs and services are located; it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or property in the vicinity, would not be prejudicial to public health and would generally 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.

16.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order 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 the 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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the attenuation and 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.

4. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.”

Reason: In the Interest of orderly development.

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

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. 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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

6. 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.

7. The construction of the development shall be managed in accordance with a Construction 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

8. 34 bicycle parking spaces shall be provided within the scheme. Details of the layout and demarcation of these spaces shall be submitted to, and

agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development in the interest of sustainable transportation.

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

Reason: In the interests of amenity and public safety.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

11. 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.

12. The site development and construction works shall be carried out in such a manner so as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

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

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

14. The naming and numbering of the scheme shall be agreed in writing with the planning authority prior to the occupation of the dwelling.

Reason: In the interest of orderly street numbering.

15. The developer shall pay to the planning authority a financial contribution of 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. The application of any indexation required by this condition 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.

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 made under section 48 of the Act be applied to the permission.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development

Paul Caprani,
Senior Planning Inspector.

March 4th, 2020.