



An
Bord
Pleanála

Inspector's Report ABP306040-19

Development	Demolition of the existing commercial building, change of use to residential and the construction of a terrace of 3 houses.
Location	Corner of 75(a) Leeson Street Upper and Swan Place, North Morehampton Square, Dublin 4.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3267/19.
Applicants	Mark Legge, John O'Leary, Ruvann Kavanagh.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellants	Swan Place Residents Association.
Observer	(i) An Taisce, (ii) Helen O'Brien.
Date of Site Inspection	25 th February, 2020.
Inspector	Paul Caprani.

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1.0 Introduction

ABP306040-19 relates to a third-party appeal against the decision of Dublin City Council to issue notification to grant planning permission for the demolition of an existing commercial building and change of use from commercial use to residential use and the construction of a terrace of 3 residential units. The grounds of appeal submitted by the residents of Swan Place argues that the proposed development adversely impacts on the visual, historic and residential amenities of the area and constitutes an overdevelopment of the subject site.

2.0 Site Location and Description

- 2.1. The appeal site is located near the junction of Morehampton Road, Leeson Street Upper, Wellington Place and Swan Place, a narrow laneway along the front of the site. The subject site is located approximately 3 kilometres south-east of Dublin City Centre. The site currently accommodates a single-storey commercial premises which is currently vacant but previously accommodated a motor parts business. The premises is located on the southern side of the junction of Morehampton Road and Swan Place and looks directly towards the junction of Morehampton Road and Wellington Place.
- 2.2. The wider area is characterised by largescale red brick Victorian dwellings setback from the roadway. Many of these buildings in the vicinity are protected structures and are located within Residential Conservation Areas. The subject site and the lands immediately adjoining the site to the south and south-east are not located within a Residential Conservation Area. Swan Place is a narrow laneway, just over 4 metres in width. The subject site is roughly rectangular in shape and narrows to the rear. It is approximately 26 metres in length and between 9 and 3 metres in width. The single storey vacant building occupies most of the site, a small area to the rear is under-developed. It has a site area of 151 square metres. The Morehampton Square residential development is located to the south of the subject site. This development comprises of two-storey duplex units dating from the mid-1980s. The existing building on the subject site is in poor structural condition.

3.0 Proposed Development

- 3.1. Planning permission is sought for the demolition of the existing single-storey commercial structure on site and the construction of a three-storey block accommodating three two-bedroomed residential units with access onto Swan Place. Each of the units accommodate bedroom accommodation at ground floor level, living accommodation at first floor level and an additional bedroom and external deck at second floor level. No car parking is to be provided as part of the proposal. The building is to rise to a height of 9 metres and is to incorporate a flat roof. The external elevation comprises of a mixture of brick cladding and timber cladding on the upper floor level facing onto Morehampton Square. There are no windows proposed on the Morehampton Square elevation. All windows serving the apartments face northwards on Swan Place. Unit No. 1, which adjoins Morehampton Road also incorporates windows at first and second floor level onto Morehampton Road. Each of the three residential units occupy a floor area of 98.4 square metres. The planning application form submitted with the application indicates that the proposed plot ratio is 1.9 and the proposed site coverage is 95%.

4.0 Planning Authority Decision

4.1. Decision

- 4.1.1. Dublin City Council issued notification to grant planning permission subject to eight standard conditions.

4.2. Planning Authority Assessment

- 4.2.1. A report from the Engineering Department Drainage Division stated that there was no objection to the proposed development subject to standard conditions.
- 4.2.2. A number of observations were also submitted many of which objected to the proposed development. The Board will also note that a number of observations also supported the development.
- 4.2.3. A report from the Roads, Streets and Traffic Department recommended additional information.

- 4.2.4. A report from the Conservation Department merely states that no conservation officer's review of the file was undertaken. The particulars of the proposal have been discussed with the Planning Officer.
- 4.2.5. The Planning Report notes that the site currently accommodates the remnants of a Victorian house. However, only fragmentary sections of the original wall remain. It is also noted that there is no features of any significance present and the building has suffered from deterioration in recent years. The Conservation Division has advised that, notwithstanding the modest nature of the Victorian house, it is regretful that the applicant proposes to demolish this building rather than consider its rehabilitation. However, the planning report considers the demolition to be acceptable. The report notes that the proposed development incorporates a high level of quality and innovation in architectural terms and that the Planning Authority may relax the normal planning standards in the interests of ensuring that vacant, derelict and underutilised land in the city is developed. The Council's Conservation Department have reviewed the proposal and advised that the Morehampton Road/Leeson Street Upper is a historic route with a strong architectural character. Notwithstanding the contemporary nature of the proposal, concerns remain that the development is overscaled and overbearing on this tight narrow site. Having regard to the tightness of the site, it is considered reasonable in this instance that the applicant be afforded the opportunity to consider the setting back of the development. It is acknowledged however that this could have implications for the quantum of development on site. The proposed development is also assessed in terms of residential amenity, car parking and access and drainage.
- 4.2.6. On foot of the initial evaluation by the planning authority, it is considered that the following further information should be requested from the applicant.
1. The Planning Authority have concerns regarding the proposed building line along Leeson Street Upper and given the scale of the development and the visual intrusion into the existing streetscape, the applicant is requested to review this aspect of the design.
 2. The proposed residential units are north-west facing, primarily single aspect units and the Planning Authority has concerns regarding the level of daylight that would be provided in the proposed rooms. The applicant is requested to

increase daylighting within the development and to confirm compliance with daylight/sunlight BRE standards.

3. The applicant is requested to submit further details in relation to bin storage.
4. There are concerns regarding sightlines for vehicles exiting Swan Place onto Morehampton Road/Leeson Street Upper. The applicant is requested to submit sightline drawings for vehicles exiting Swan Place. The building line along Morehampton Road may need to be setback to achieve appropriate sightlines for vehicles exiting Swan Place.
5. The applicant is requested to submit a preliminary construction management plan providing details of traffic management, hours of working, deliveries etc.
6. The applicant is requested to confirm if the footpath along Swan Place is to be taken in charge. If so, the proposed building overhang should be omitted to achieve taking in charge standards.

4.2.7. A report on file from Irish Water (the same day that Dublin City Council requested additional information) was submitted. It recommended that further information is required.

4.3. Additional Information Response

- 4.3.1. Further Information was submitted on behalf of the applicant. It is summarised below.
- 4.3.2. The applicant stated that, having reviewed the design in detail, and liaised with the Planning Authority, it is submitted that the current proposal is considered to be the most appropriate response to both the streetscape and the wider context and should therefore warrant approval.
- 4.3.3. In relation to daylight and sunlight, a daylight and sunlight analysis was carried out and submitted with the additional information. The assessment indicated that the application is general compliant with the incorporation of a number of minor adjustments including a slight increase in the size of the rooflights provided.
- 4.3.4. With regard to the storage, it is stated that each of the dwellings has its own bin store to accommodate black and brown bins (both 240 litres). Dry mixed recyclables can

be stored within each individual dwelling unit (the collection being by bag). If deemed appropriate the applicant can provide three 240 litre bins for each of the dwellings.

- 4.3.5. With regard to sightlines, drawings were submitted which illustrate that with a setback of 2.4 metres the proposal maintains the existing sightlines with no detrimental effect to same. The proposal will not result in any intensification of use.
- 4.3.6. Also submitted is a construction management report.
- 4.3.7. On the basis of consultations with Dublin City Council's Transportation Planning Division the applicants are happy for the taking in charge not to occur and would agree to a condition being imposed to ensure that the materials proposed at the 1 metre wide footpath be agreed in writing with the Planning Authority as part of any planning permission granted.

4.4. Further Assessment by the Planning Authority

- 4.4.1. A further report from the Roads, Street and Traffic Department accepted the additional information request and recommended that a number of conditions be attached to any grant of planning permission.
- 4.4.2. A further report from the Engineering Department Drainage Division did not raise any objection to the proposal.
- 4.4.3. A further report prepared by the Planning Department states that the applicant has responded to the issues of concern appropriately and that the Planning Authority are satisfied with the response submitted. On this basis it is recommended that planning permission be granted for the proposed development.

5.0 Planning History

- 5.1. No history files are attached. The planning officer's report states that there is no planning history associated with the development.

6.0 Grounds of Appeal

- 6.1. The decision was appealed by the Swan Place Residents Association. The grounds of appeal are outlined below.

- Dublin City Council’s evaluation of the proposed development in the context of the local conservation areas and the protected streetscape in the vicinity of the site was deemed to be improper, flawed and lacking impartiality. The site is surrounded by an extremely sensitive area in terms of historic conservation. It is suggested that the surrounding area is not dissimilar to Merrion or Fitzwilliam Square. The density of the proposed development is described as “aggressive” and the overall design is described as modernist/brutalist. The proposal makes a mockery of conservation principles.
- It is noted that the architectural firm who designed the building do not employ architects with any conservation accreditation. It is not appropriate that Dublin City Council could adjudicate on the application before it without the input from an accredited conservation architect.
- It is suggested that the building which is in situ on site should be retained and where commercially viable retail unit such as a deli, bakery or coffee shop could be provided.
- The three-storey development proposed would be visually and aesthetically intrusive and would destroy the streetscape. The An Taisce submission to the planning authority also expresses concern that the overall design is unsympathetic.
- The Dublin City Council Planner quoted generalist policies in support of granting the planning application. However, it is argued that the Council did not properly consider the conservation objectives set out in the Dublin City Development Plan. Dublin City Council were incorrect in referring to Section 16.10.16 of the development plan which relates to mews dwellings. The subject site is not a mews dwelling.
- The lack of informal report from Dublin City Council Conservation Department amounts to a lack of transparency. It is stated that no site meeting took place between the Planner and the Conservation Department. The Dublin City Council Planner has consistently and repeatedly overridden the Conservation Department’s advice.
- It is considered that the overall design of the development is brutalist, haphazard and ugly and completely out of character with surrounding

buildings and detrimental to the streetscape as a whole. It is suggested that when a continuous streetscape is broken up by inappropriate buildings, the architectural continuity is broken and the streetscape is no longer pretty.

- This development if granted, would be the only building along this c.1.2 kilometre route which is not recessed behind the front boundary. It will destroy one of Dublin's main Edwardian, Victorian and Georgian streetscapes.
- The proposal constitutes an overdevelopment of the site. It is stated that the plot ratio is 2.08 and not 1.9 as stated in the application and the site coverage is 100% not 85.5% as stated in the application form. Furthermore, the proposal constitutes 211 three-storey houses per hectare and not 198 as stated in the application. It is suggested that the proposal grossly exceeds all reasonable density parameters.
- The applicants have no interest in resolving the dangerous blind spot on the basis that it would impede on profit.
- The Dublin City Council Planner has only requested a daylight assessment on the level of daylight in the rooms of the proposed development. The Planning Department has failed to consider the effect that the development will have on adjoining Leeson Street protected structures, Morehampton Square The nature and amenity park on the opposite side of the road and most importantly, upon N11 traffic users.
- Dublin City Council offered the developer's an opportunity to remove the cantilevered element of the proposed development. When Dublin City Council offered the developers to retain this 1 metre pathway as public realm in lieu of giving up square footage the developers chose to keep the square footage. The development is therefore about profit as opposed to public interest.
- The houses are not designed for families. The door opens onto laneways where cars travel at speed and this is deemed to be extremely dangerous for children and residents of the houses in question.
- It is suggested that a decision was rushed and that the Drainage Department report predated the appellant's objection and as such many of the issues raised in the appellant's objection were not taken into consideration by the

Drainage Department. It is also suggested that many of the objectives contained on file may not have been read by the Roads and Traffic Department.

- Issues in relation to flooding and drainage raised in the original objection may have been ignored due to the improper haste in determining the application. It is suggested that the proposal will only exacerbate existing flooding problems.
- The construction management plan submitted by way of additional information is a generic 'off the shelf' document with multiple inaccuracies and it is suggested in the grounds of appeal that the site may not have been visited. The grounds of appeal set out details of the inaccuracies on site. It is suggested that many aspects of the construction management plan were merely copied and pasted from other plans. It is also suggested that the narrowness of the laneway serving the site will impede traffic using the site during the construction period.
- The construction of a three-storey development on this site will make any future improvements to the QBC or the main arterial road impossible. While the NRA have no plans to acquire lands along this road at present, this may change in the future should it be proposed to expand the QBC at this location. Traffic along the N11 will only increase.
- Concerns are expressed in relation to bin storage. It is stated that the residents of Swan Place Courtyard are served by three different bin types. The carrying of bins from front doors of each house is an accident hazard with cars coming onto the laneway at speed.
- Vehicular access and egress for residents during construction will not be possible and access/egress for ambulance and emergency services will not be possible during the construction phase. There is no explanation as to how large machinery is to access, turn within the site, and egress from the site.
- It is also stated that it is very probable that the applicants own a car and therefore will try to avail of car parking in the immediate area. Visitors and delivery vehicles will also require parking. It is suggested that the applicants will either sell or rent out houses and there will be no control over the parking of the residents there or their visitors and deliveries.

- In conclusion, it is stated that the proposed development constitutes very bad planning and in the national interest this development should be refused.

7.0 Appeal Responses

- 7.1. Dublin City Council have not submitted a response to the grounds of appeal.
- 7.2. A response on behalf of the applicant was made by IMG Planning. The response is outlined below.
- 7.3. The response sets out details of the site location and description and details of the proposed development. It also sets out details of the proposed planning application and the rationale which Dublin City Council took into consideration in determining the application.
- 7.4. It is stated that the site was acquired in August, 2018 by the three applicants and they spent over 10 months consulting with Dublin City Council and the wider community in order to ensure that the development fitted seamlessly in with the surrounding environment.
- 7.5. Much of the grounds of appeal express detailed comments in relation to the qualifications and experience of the applicants' design team and the planning officers of Dublin City Council. It is not the intention to acknowledge or comment on these aspects of the appeal as they are considered to be to a large extent irrelevant. It is however suggested that the Planning Authority were correct in coming to the conclusion that the nature and scale of the proposed development would not adversely affect the character of surrounding areas and will not seriously injure the amenity of property in the vicinity.
- 7.6. The applicants do not accept that the overall design is brutalist, haphazard or ugly as suggested in the grounds of appeal. It is stated that neither the applicant nor the City Council accept this contention. The applicants' architects are a fully accredited practice with long established reputation for design quality and as such are acutely aware that the subject site is located in a prominent location adjacent to Residential Conservation Areas. However, the site is very much standalone and does not specifically relate to any of the properties surrounding it. It is stated that there is no continuous streetscape along this section of road. There is a significant variety of

buildings and building types along the roadway. Furthermore, the commercial frontage on the application site is totally out of character with the area and detracts significantly from the appearance of the area. It is considered that the design as proposed is appropriate and it is considered that the building will comfortably and sensitively sit within the wider context. It is suggested that the opinion of the appellants in relation to the overall design is not compatible with the accepted design criteria where contemporary and traditional designs can co-exist and complement each other.

- 7.7. It is noted that the existing building is falling into significant disrepair and is semi-derelect. Suggesting that the proposed development will be better used as a shop or deli is inappropriate as it would raise significant planning issues such as access etc. Furthermore, residential use is permissible under the zoning objective subject to normal planning considerations.
- 7.8. The proposal to provide residential units on a brownfield infill underutilised site is fully consistent with policies set out in the National Planning Framework and the Regional Spatial and Economic Strategy for the Eastern and Midland Regional Area.
- 7.9. It is acknowledged that the existing sightlines from Swan Place are restricted by the front corner boundary wall of the Morehampton Square residential development. However, this is outside the control of the applicants and no improvements can be made in this regard. It is submitted that the proposal however will not result in a traffic hazard as Morehampton Road and Upper Leeson Street are the subject of traffic speed restrictions. The provision of a yellow box to the front of Swan Place allows traffic to exit in a safe manner and this is similar to many arrangements for mews lanes throughout the city. Stepping the building back would make no material difference to sightlines for traffic exiting at Swan Place.
- 7.10. The proposal will not result in a traffic hazard as cars cannot enter the lane at any speed due to the narrow width. Mews dwellings that open directly onto laneways are a common feature in the surrounding areas.
- 7.11. The emerging preferred route in relation to the bus connects corridor indicates that there is no landtake from the subject site required.
- 7.12. In relation to the construction management plan, the response states that the purpose of such a plan is to set out the principles of construction management. It is a

preliminary plan and will be refined to address the more relevant issues such as traffic management and deliveries at Swan Place.

- 7.13. With regard to development plan policy, the Board are requested to note that the subject site is not located in a Residential Conservation Area. Furthermore, it is argued that the proposed development will have a significant positive impact on the amenities of the area and will be acceptable in terms of traffic safety and convenience. It is submitted that the proposed development fully adheres to development management standards for infill developments as set out in the development plan. It complies with the relaxed standards for residential development which are appropriate in certain limited circumstances to ensure that vacant, derelict and underutilised land in the inner and outer city is developed. It complies with appropriate minimal habitable room standards.
- 7.14. The site is outside the rainfall pluvial flooding extents mapping zone and is located within Flood Zone C and this therefore suitable for residential development in accordance with the Dublin City Development Plan Strategic Flood Risk Assessment. There is no evidence that the site has ever flooded in the past. Any spot flooding that has taken place is not resulting from a capacity issue but rather a maintenance issue in relation to blocked gullies. The proposal will fully comply with the Greater Dublin Regional Code of Practice for Drainage Works within which SuDS are a mandatory requirement.
- 7.15. It is not accepted that the proposed development will result in the overshadowing of adjoining protected structures having regard to the proposal's location and orientation in the context of these protected structures.
- 7.16. It is stated that the applicants do not have a requirement for parking and do not expect this to change for the foreseeable future. Should this change, the applicants could apply to Dublin City Council for an on-site parking permit at Wellington Place. However, it is reiterated that presently parking is not required.
- 7.17. It is stated that the plot ratio has been correctly calculated and is within the standards of the development plan. Likewise, it is argued that the site coverage is approximately 83.5% which is above the standards set out in the development plan. However, the plan also states that higher site coverage may be permitted in certain circumstances such as adjoining major public transport termini and corridors and

also through redeveloped areas in need of urban renewal. Finally, it is stated that the residential density at 189 units per hectare is appropriate and full consistent with the National Planning Framework which seeks to promote appropriate sustainable redevelopment of vacant and brownfield sites within existing built-up footprints which are well served by existing and planned public transport.

8.0 Observations

Two observations were submitted.

8.1. Observation from An Taisce

8.1.1. It states that the proposed development has the potential to impact on adjacent protected structures on Upper Leeson Street and for this reason An Taisce supports the third party appeal lodged. Morehampton Road/Leeson Street is a historic route of considerable significance. The area has strong character created by fine 19th century period houses some of which are protected structures and located within a Residential Conservation Area. Any new development on the subject site needs to be carefully considered to preserve and enhance the existing characteristics of the area. The proposal is not consistent with the established pattern of development along the route and would compromise the character and vistas along the historic Morehampton Road/Upper Leeson Street route.

8.1.2. The proposed development would also result in a blind spot emerging from Swan Place onto the busy main thoroughfare. An Taisce would recommend that the proposed development be revised by setting it back from Morehampton Road/Upper Leeson Street so as to respect the existing street alignments and preserve the prominent historic character and vistas along the route in order to provide for a safe entry/exit point on the laneway and to protect the amenities and value of surrounding properties.

8.2. Observation from Helen O'Brien

8.2.1. This observation wishes to support the grounds of appeal and states that as an elderly resident, the observer is extremely concerned that the construction of the proposed development will inhibit emergency services such as ambulances or fire brigade to gain access along Swan lane. Also, the proposal represents a missed

opportunity to eradicate the blind spot when exiting the laneway. The new development should have been recessed back from the roadway to alleviate this major problem. It is stated that builders generally parking place machinery where they choose without having due regard to the needs of the residents.

- 8.2.2. Concerns are expressed that no parking has been provided and the entrance to the houses will be directly onto the laneway. This will be hazardous due to the narrowness of the laneway. The development will result in “an accident waiting to happen”.
- 8.2.3. Concerns are also expressed that the design is modern and not in keeping with the area and it will affect the aesthetics of one of Dublin’s protected arterial routes and will therefore be detrimental to Dublin’s heritage.
- 8.2.4. Drainage is also a major concern. The observer has experienced flooding three times. The provision of three additional buildings would make matters worse.

9.0 Development Plan Provision

- 9.1. 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 development is a permissible use under this land use zoning objective.

Section 16.2.2.2 relates to infill development. It states that the particular character of the city and its concentration of historic buildings means that most redevelopment opportunities are for infill development i.e. gap sites within existing areas of established urban form. It is particularly important that the proposed development respects and enhances its context and is well integrated with its surroundings ensuring a more coherent cityscape.

- 9.2. As such, Dublin City Council will seek:
 - To ensure that infill development respects and complements the prevailing scale, architectural quality, and degree of uniformity in the surrounding townscape.
 - In areas of various cityscape of significant quality, infill development will demonstrate a positive response to this context, including characteristic

building plot widths, architectural form, and materials and detailing of existing buildings, where these contribute positively to the character and appearance of the area.

- 9.3. Chapter 5 of the development plan specifically relates to quality housing. 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.
- 9.4. 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 the character of the area.
- 9.5. QH21 seeks to ensure that new houses provide for the needs of family accommodation with a satisfactory level of residential amenity in accordance with the standards for residential accommodation.
- 9.6. QH22 seeks to ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.
- 9.7. Section 16.10.10 also relates to infill housing. It states that having regard to policy on infill sites and to make the most sustainable use of lands and existing urban infrastructure, the Planning Authority will allow for development of infill housing on appropriate sites. In general, infill housing should comply with all development plan standards for residential development, however in certain limited circumstances the Planning Authority may relax the normal planning standards in the interest of ensuring that vacant derelict and underutilised land in the inner and outer city is developed.
- 9.8. Infill housing should:
 - Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.
 - Comply with appropriate minimum habitable room sizes.

- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

9.9. In terms of indicative plot ratio standards, Z1 incorporates an indicative plot ratio of 0.5 to 2.0. In terms of site coverage Z1 has an indicative site coverage of 45 to 60%.

9.10. Chapter 11 of the development plan sets out policies and objectives in relation to Built Heritage and Culture. Policy CHC4 seeks to protect the special interest and character of all Dublin's Conservation Areas stating that development within or affecting a Conservation Area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Further policies and objectives are contained in this section of the Plan, all of which seek to protect the historic and architectural settings of protected structures, Conservation Areas and Architectural Conservation Areas.

10.0 EIAR Screening Determination

Having regard to the nature of the development comprising of three dwelling units in an urban area, it is 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.

11.0 Planning Assessment

I have visited the subject site, have had particular regard to the issues raised in the grounds of appeal and the observations submitted and I consider the following issues to be pertinent in determining the current application and appeal before the Board:

- Principle of Development
- The Lack of Input from Person with Conservation Expertise
- Dublin City Council's Policy Omissions
- Design Issues/Overdevelopment of the Subject Site

- Road Safety, Parking and Access Issues
- Flooding Issues
- Construction Management Plan
- Overshadowing

Each of these issues will be assessed below.

11.1. Principle of Development

- 11.1.1. A fundamental consideration in adjudicating on the application in question relates to whether or not residential development is suitable for the subject site. The site is governed by the zoning objective Z1 for which residential development is a permissible use. Furthermore, both the development plan and more recently published national plans including the National Planning Framework highlight the need and importance of developing existing urban areas of more sustainable densities. The National Planning Framework targets a significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas. There is a general presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities. The National Planning Framework highlights that the preferred approach would be compact development that focuses on reusing previously developed brownfield land and building up infill sites including reusing or redeveloping existing sites and buildings. Policy QH7 and QH8 of the development plan both seek to promote residential development at sustainable urban densities, particularly on 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.
- 11.1.2. Both the development plan in Section 16.10.10, and the National Planning Framework throughout the document, highlight the need in certain circumstances to relax normal planning standards in the interests of ensuring that vacant derelict and underutilised land in the inner and outer city is developed. The National Planning Framework emphasises the need to concentrate on performance-based design standards rather than specifying absolute requirements in all cases.
- 11.1.3. The principle of developing the subject site for three residential units is therefore acceptable in principle. Having regard to the land use zoning objective relating to the

site, and national and local policy which seeks to develop urban infill sites and more appropriate densities, the principle of development is in my view acceptable on the subject site.

- 11.1.4. Any such development however should be assessed in the context of appropriate qualitative safeguards and many of these qualitative safeguards have been raised in the grounds of appeal and the observations submitted and these are dealt with in more detail below.

11.2. The Lack of Input from Person with Conservation Expertise

- 11.2.1. The grounds of appeal argue in great detail that the decision of Dublin City Council was flawed on the basis that it failed to properly evaluate the impact of the proposal on conservation areas and protected structures in the vicinity of the site.

Morehampton Road and Leeson Street Upper are streetscapes of significant architectural and historic quality. They incorporate rows and terraces of protected structures that attract 'Conservation Area' status. The building along the road are a mixture of Georgian (along Leeson Street closer to the city centre) and Victorian residential dwellings.

- 11.2.2. The subject site however is not located within a Residential Conservation Area. The site in which the building is located is not deemed to be as sensitive as the surrounding areas. Furthermore, the building in question is of little architectural and conservation value. While the original structure dates from Victorian times, only the remnants of the existing building remain, there are no architectural or historic features of any importance remaining on the subject site.

- 11.2.3. To suggest that any redevelopment of the site in the absence of a qualified conservation architect is in my view excessive. It will be only in the case where a building is of significant architectural or historic importance and where it was proposed to refurbish or in some way alter a building of historic or architectural importance that input from a conservation architect would be necessary. The subject site is not even located with a Conservation Area and the building in question is of little architectural importance. To suggest that conservation expertise is necessary in redeveloping a site on the basis that it is in close proximity to protected structures and conservation areas would suggest that the redevelopment of every site in the city centre would be required to be carried out by a conservation architect as every

site is in close proximity to a conservation area or a protected structure. I reiterate that the input of a conservation architect is only in my view necessary or appropriate were the building to be affected is of some architectural or historic importance or perhaps where the site is located within a conservation area. Neither of these criteria apply in the case of the current site.

11.2.4. In relation to the input of the Dublin City Council's Conservation Officer, the conservation report on file merely states that "no conservation officer's review of this file was undertaken. The particulars of the proposal have been discussed with the planning officer". Furthermore, the planner's report notes that the Council's conservation division has advised that notwithstanding the modest nature of the Victorian house, it is regrettable that the applicant proposes to demolish this building rather than consider its rehabilitation. The planner's report notes that only fragmentary sections of the original walls remain and that there are no features of any significance present within the building which has suffered from deterioration in recent years. Having inspected the subject site and its surrounding I would generally be in agreement with this conclusion. Notwithstanding any reservation which the conservation office may have in relation to the proposed development, I would agree with the local authority planner's conclusion that any potential adverse impact in conservation terms must be balanced against the planning gains derived from providing compact residential development which makes efficient use of scarce urban land on infill sites.

11.3. **Dublin City Council's Policy Omissions**

11.3.1. The grounds of appeal suggest that Dublin City Council were remiss in omitting numerous policy statements in the report in relation to conservation objectives which are contained in Chapter 11 of the Dublin City Development Plan. These include policies in relation to the importance of protecting Conservation Areas for the tourism industry, the impact of inappropriately designed dwellings that harm Conservation Areas and the need to preserve the character of Conservation Areas, groups of structures and townscape. I do not accept the proposition set out in the grounds of appeal. I reiterate that the subject site is not located within a Conservation Area. While I acknowledge that it is located adjacent to Conservation Areas, the site constitutes a standalone site which is separated from surrounding Conservation Areas by a laneway (Swan Place) in the case of the protected structures and

Conservation Area on Leeson Street Upper to the north of the site, and a large arterial road in the case of Conservation Areas to the east and north-east on Morehampton Road and Wellington Place. Furthermore, the site currently occupies a squat single-storey structure which is of poor visual amenity. The proposed development constitutes a significant visual improvement and therefore planning gain when compared with the building that currently occupies the site.

11.3.2. The Dublin City Council Planning Report was in my view correct to emphasize the policies and provisions relevant in the development plan that directly pertains to the site rather than emphasizing policies and provisions that are more relevant to the lands surrounding the site.

11.4. **Design Issues/Overdevelopment of the Subject Site**

11.4.1. The proposed development in my view undoubtedly represents a planning gain in both visual and amenity terms when compared with the existing single-storey semi-derelict structure which currently occupies the site. I do not accept the appellant's view that the redevelopment of the subject site results in an intervention which could be considered 'brutal, haphazard and ugly'. I do accept however that the proposal is not reflective of the surrounding buildings. It would in my view be inappropriate to attempt to slavishly adhere to the existing design character of the surrounding built environment. The incorporation of a pastiche type architecture would in my view be inappropriate, particularly on such a confined site. The Architectural Heritage Protection Guidelines highlight the appropriateness of incorporating high quality contemporary style additions to existing protected structures. A similar philosophy would in my view be appropriate for developments located in proximity to protected structures. The guidelines in paragraph 6.8.3 note that "*attempts should not be made to disguise new additions or extensions or make them appear to belong to the historic fabric*". The architectural style of additions do not necessarily need to intimate historic styles or replicate the detailing of the original building in order to be acceptable. The guidelines however also warn against unsympathetic or inappropriate work.

11.4.2. I consider the overall design approach in the case of the current application is unashamedly contemporary in style. I would further agree with the conclusion of the Planning Authority that the proposal constitutes an appropriate intervention on a

constrained infill site and has “*high level of quality and innovation in architectural terms to address the site constraints*”. As such I consider the design to be appropriate.

11.4.3. With regard to the issue of overdevelopment, I would again make reference to a number of recently adopted planning guidelines including the National Planning Framework and Urban Development and Building Heights Guidelines for Planning Authorities which emphasise the need to maximise density within existing built up areas particularly in relation to infill and brownfield sites and the need, in appropriate circumstances, to relax the normal planning standards in the interest of ensuring that vacant derelict and underutilised land in the inner and outer city is developed. Having regard to the above statements, and the constrained nature of the site together with its location it is considered that any exceedance of the indicative plot ratio or site coverage is in my view appropriate.

11.5. Road Safety, Parking and Access Issues

11.5.1. Swan Place is a narrow laneway less than 4 metres in width along the front elevation of the building which is the subject of the current application. Nevertheless, it provides access to a number of dwellinghouses to the rear of Leeson Street Upper, (approximately 10-12). Currently, there is no footpath along Swan Place and parking restrictions have been implemented along both sides of the laneway. The proposed development does not seek to alter the laneway or the parking provisions along the laneway with the exception of provide a 1 metre wide footpath within the site boundary in order to assist pedestrian movement along the laneway. This in my view would represent a planning gain in terms of facilitating safer pedestrian movements along the laneway.

11.5.2. The An Taisce submission suggests that the building should be recessed along the Morehampton Road/Leeson Street Upper elevation in order to assist sightlines when looking south-eastwards along Morehampton Road. Having inspected the site I am generally in agreement with the applicant that the recessing of the building would do little to assist sightlines as the boundary wall along Morehampton Square would remain as a significant impediment to sightlines in a south-easterly direction.

11.5.3. With regard to parking, the applicant has indicated that none of the proposed occupants of the units currently own a car. I fully acknowledge that this situation

could change over time and that occupants of the units at some future date may own or have access to a car. However, there is an increasing trend, particularly in relation to small scale developments, to omit the provision of off-street car parking particularly in city centre sites which have good access to public transport. The subject site is located on a major arterial route with good access to public transport and therefore the Board should in my view consider granting planning permission for the proposed development in the absence of off-street car parking. It is apparent given the constrained nature of the site that it would be impossible to provide some form of off-street car parking to serve the three units. As the applicant also points out in his response to the grounds of appeal that should an occupant of the development seek to avail of car parking at some future date it can apply to Dublin City Council to obtain an on-street car parking permit and any such application would be evaluated on its merits.

11.5.4. Concerns are also expressed that the proposal incorporates direct access onto Swan Place and this in itself could constitute a traffic hazard and create road safety and child safety issues. In relation to this matter the applicant is proposing to provide a 1 metre wide footpath along the frontage of the development and this will ensure that occupants of the building will not step directly onto the carriageway of Swan Place. Furthermore, the narrow width of the laneway will mitigate against traffic travelling at significant speeds along this section of the laneway. The modest widths of the laneway will intrinsically slow traffic. Finally, it is clear from the drawings submitted that all doorways providing access to the street open inwardly. It is not unusual that development's facing onto urban laneways (such as mews developments) that dwellings would face and open-up directly onto the street/laneway.

11.5.5. The fact that the first floor is slightly cantilevered over the footpath inhibits Dublin City Council from taking this section of the footpath in charge as it does not meet with the City Council's Taking in Charge criteria. The grounds of appeal suggest that this in itself constitutes reasonable grounds for refusal. The fact that Dublin City Council in this instance does not propose to take the section of footpath in charge does not in my opinion constitute reasonable grounds for refusal. A condition can be attached requiring the applicant to maintain the footpath in question to a reasonable standard.

11.5.6. Concerns are expressed that the construction of the proposed development could give rise to access problems with delivery of materials etc. on the subject site. It is inevitable that construction activity will give rise to some level of inconvenience and amenity issues during the course of undertaking the works. However, this in itself should not preclude a grant of planning permission as such issues arise in the case of every construction phase associated with development particularly in city centres. Any such impacts are short term and temporary. Details of deliveries and localised traffic management to manage the flow and arrival of larger vehicles and machinery onto the site can be managed in an appropriate co-ordinated way with Dublin City Council.

11.5.7. Finally, in relation to matters concerning traffic and access, the grounds of appeal suggest that the proposed development could at some later stage compromise the bus connects project or the QBC route along Morehampton Road. The applicant in response to the grounds of appeal, has submitted information that indicates the emerging preferred route which has been published by the National Transport Agency in February 2019. It indicates that there will be no land requirements along this section of the alignment of the bus corridor.

11.6. **Flooding Issues**

11.6.1. Concerns are expressed in the grounds of appeal and in also one of the observations, that the proposal could exacerbate flooding in the area. It is proposed in this instance to replace the single storey building within an existing built up area with a three storey structure. The proposal will not result in any increased area of hardstanding to the extent that it would exacerbate pluvial or any other potential source of flooding. It is clear from the observations submitted to the Planning Authority that flooding on the laneway has been an issue in the past. However, this flooding has been attributed to the blocking of surface water drains and is therefore a maintenance issue. The proposed development would not therefore exacerbate flooding issues in this regard. Furthermore, I have consulted the OPW Flood Hazard Maps and the site is not located adjacent or in proximity to any area where flooding has either a low probability or high probability of occurring.

11.7. Construction Management Plan

11.7.1. I would accept and acknowledge that the Construction Management Plan submitted by way of additional information is somewhat generic in nature. However, this in itself does not constitute reasonable grounds for refusal in my opinion. I do note that an agreement has been reached in principle between the developers and the management company of the adjoining dwelling at Morehampton Square to temporarily occupy a space to the south-east of the proposed development which will provide working space to facilitate the development. It is envisaged that vehicular access can be facilitated in this area. If the Board accept the principle of development, I consider that a more detailed construction management plan can be agreed between the Planning Authority and the applicant in respect of construction activities and phasing to facilitate the proposed development. In my opinion this issue can be adequately addressed by way of condition between the developer and the Planning Authority.

11.8. Impact in Terms of Overshadowing

The subject site is located in an urban area and with policies to increase residential densities to sustainable levels particularly in relation to brownfield and infill sites. It is inevitable, particularly during winter months, that some level of overshadowing, and perhaps increased levels of overshadowing will take place. The nearest block to the proposed development is the three storey residential block at Morehampton Square. However, this development is located to the south of the subject site and therefore is unlikely to be significantly impacted upon due to overshadowing. The only other dwellings which could potentially be impacted upon are the three storey dwellings to the south-west of the subject site at No. 74 Leeson Street Upper. The impact on this dwelling is deemed to be negligible due to the height of the proposed building and the separation distances involved.

Refusing planning permission on the basis that the proposed development could give rise to overshadowing on traffic travelling along the N11 does not constitute reasonable grounds for refusal for the proposed development or indeed any development.

12.0 Conclusions and Recommendation

Arising from my assessment above and having particular regard to the zoning objective relating to the site, and the fact that local development plan and national policy seek to redevelop underutilised brownfield lands within established urban centres at sustainable densities to ensure the efficient use of the said lands, it is considered that the proposal to develop the subject site for the accommodation of three separate residential units is fully in accordance with the proper planning and sustainable development of the area.

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 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

15.0 Reasons and Considerations

Having regard to the Z1 zoning objective relating to the site and the policies set out in Section 16.10.10 of the development plan in respect of infill housing it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of 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 as amended by the plans and particulars received by the planning authority on the 10th day of October, 2019, 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. Full details of the materials, colours and textures of all external finishes to the proposed dwellings shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

3. Details of all external boundaries shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Details of all storage areas including bin storage shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of residential amenity.

4. 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.

Reason: In the interests of visual and residential amenity.

5. Details of all surface water and drainage arrangements shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

6. The applicant or developer shall enter into a water and/or wastewater connection agreement with Irish Water prior to the commencement of development.

Reason: In the interest of orderly development.

7. Proposals for a name/numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames within the residential area.

8. Site development works and construction works shall be carried out in such a manner 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 road, the said cleaning works shall be carried out at developer's expense.

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

9. The following requirements of the Transportation Division of Dublin City Council shall be complied with:

- (a) Prior to the commencement of development, and on the appointment of the main contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction

practice for development, construction programme and key phases, a detailed traffic management plan including management of pedestrian movement, hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

- (b) Details of the materials proposed in public areas and the proposed footpath shall be in accordance with the requirements of the document entitled Construction Standards for Road and Street Works in Dublin City Council and agreed in detail with the Road and Maintenance Division.
- (c) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development shall be at the expense of the developer.
- (d) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: In the interest of traffic safety and the proper planning and sustainable development of the area.

10. Construction work shall only take place between the hours of 7 a.m. to 6 p.m. Mondays to Friday and 8 a.m. to 2 pm. on Saturday and not at all on Sundays or bank holidays. Work outside the above times shall only take place with the written agreement of the planning authority.

Reason: To safeguard the residential amenities of the area.

11. 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.

12. (a) A plan containing details for the management of waste (and in particular recyclable materials) within the development, including the provision of facilities for storage, separation and collection of waste and in particular recyclable materials shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Thereafter the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened bin stores, which shall accommodate not less than three standard size wheelie bins within the curtilage of each house plot.

Reason: In the interest of residential amenity and to ensure the provision of adequate refuse storage.

13. The developer shall pay to the planning authority a financial contribution of €15,785 (fifteen thousand seven hundred and eighty-five euro) 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.

Paul Caprani,
Senior Planning Inspector.

9th March, 2020.