



An
Bord
Pleanála

Inspector's Report

ABP-306067-19

Development	Demolition of single storey commercial structure, The construction of a part 3 / part 4 storey mixed use development
Location	77-78 Seville Place, 38 Lower Oriel Street and 60 Fourth Avenue, Dublin 1
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	2490/19
Applicant(s)	Gerry Fay
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Noel & Bri McInerney
Date of Site Inspection	13 th March 2020
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.0389 hectares, is located at the junction of 77-78 Seville Place, 38 Lower Oriel Street and 60 Fourth Avenue, to the east of Dublin City Centre. The appeal site is occupied by a number of existing structures. Fronting onto Seville Place is a three-storey structure in residential use, at the corner of Seville Place and Fourth Avenue is a single-storey shop unit. The site also includes a two-storey dwelling at no. 38 Lower Oriel Street and a single-storey dwelling at no. 60 Fourth Avenue. Adjoining uses and structures include a two-storey dwelling at no. 37 (to the north east of the site), which is part of a terrace of dwellings along Lower Oriel Street including no. 38 on the appeal site. It is a similar situation on Fourth Avenue with the single-story dwelling (no. 62) immediately adjoining the site and part of terrace of similar style dwellings that includes no. 60 on the appeal site.

2.0 Proposed Development

2.1. Permission is sought for (i) the demolition of an existing single-storey commercial structure at the corner of no. 78 Seville Place & Lower Oriel Street, the demolition of the internal structure of no. 77 Seville Place with the retention of the original facade and roof facing onto Seville Place and gable wall facing onto Fourth Avenue, the demolition of the internal structure and roof of the two storey terrace dwelling at no. 38 Lower Oriel Street with the retention of the original façade and demolition of the internal structure of the single-storey dwelling at no. 60 Fourth Avenue with the retention of the original façade and roof, (ii) the construction of a part 3, part 4 storey mixed use development comprising 1 no. commercial unit (87sqm) at ground floor, 1 no. 3-bed residential unit (112sqm), 1 no. 2-bed residential unit (91sqm), 5 no. 1-bed residential units (52-58sqm each), 2 no. studio residential units (38sqm each), and 1 no. penthouse residential unit (60sqm) giving a total of 10 residential units; (iii) bicycle and bin storage to ground floor; (iv) balconies fronting onto Seville Place. Fourth Avenue and Lower Oriel Street, (v) Communal roof terrace at 3rd floor level to serve all residential units; (vi) addition of new windows to existing gable wall of 77 Seville Place facing onto Fourth Avenue; (vii) minor amendments to existing facade of 77 Seville Place at ground floor level; (viii) dormer style windows facing Lower

Oriel Street and Fourth Avenue; and all ancillary works necessary to facilitate the development.

- 2.2. The proposal was amended to alter the layout of apartment no. 2 with some alterations to the external elevations and an alteration of external finishes including the provision of an increased level of brick finish on all three elevations onto the public roads surrounding the sites. A 1.8m high screen was also provided on the roof terrace at second floor level.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 15 conditions, of note are the following conditions.

Condition no. 5: Metal finish at street level of south western elevation to be omitted and replaced with brick finish.

Condition no. 9: Cycle parking to Development Plan standards is to be provided.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (03/05/20): Further information required including provision of flood risk assessment, measures to deal with concerns regarding the quality of apartment no. 2, proposal for revised external finishes, details of screening of the proposed roof terrace and ventilation of the refuse storage areas.

Planning report (02/07/19): Clarification of further information including a more detailed flood risk assessment.

Planning report (11/11/19): The response to further information was noted and the proposal was considered to be acceptable in the context of visual amenities, adjoining amenity, traffic and drainage issues. A grant of permission was recommended based on the condition outlined above.

3.2.2. Other Technical Reports

Drainage Division (08/04/19): Further information required including a flood risk assessment.

Drainage Division (20/06/19): Clarification of further information including a more detailed flood risk assessment.

Drainage Division (01/11/19): No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1 None.

3.4. Third Party Observations

3.4.1 Submission by Noel & Bri McInerney, 37 Lower Oriel Street, Dublin. The issues raised can be summarised as follows...

- Excessive bulk and scale, adverse visual impact, contrary zoning objective and development plan policy, adverse impact on adjoining amenities, insufficient parking/traffic impact, insufficient quality of the residential units.

4.0 Planning History

4.1 3519/18: Permission refused for the development consists of; (i) demolition of existing single storey commercial structure at corner of no. 78 Seville Place, Lower Oriel Street the demolition of the internal structure to no. 77 Seville Place with the retention of the original facade & roof facing onto Seville Place and gable wall facing onto Fourth Avenue, the demolition of cottage no. 60 on Fourth Avenue and the demolition of the two storey terrace dwelling at 38 Lower Oriel Street (ii) the construction of a part 3/part 4 storey mixed use development comprising 1 no. commercial unit (87m²) at ground floor , 6 no.1 bed residential units (52m² each) 5 no. studio residential units (30-38m² each), 1 no. 2 bed residential unit (81 m²) and 1 no. penthouse residential unit (60m²) giving a total of 13 residential units; (iii) bicycle & bin storage to ground floor; (iv) balconies fronting onto Seville Place,

Fourth Avenue and Lower Oriel Street (v) Communal roof terrace at 3rd floor to serve all residential units; (vi) addition of new windows to existing gable wall of 77 Seville Place facing onto Fourth Avenue; (vii) minor amendments to existing facade at 77 Seville Place at ground floor level; (viii) dormer style windows facing onto Lower Oriel Street and Fourth Avenue; and all ancillary works necessary to facilitate the development.

Refused based on three reasons...

1. Having regard to the location of the site in a residential conservation area, which has zoning objective Z2 – ‘to protect and/or improve the amenities of residential conservation areas’ in the current Dublin City Development Plan (2016-22), the proposed development, which includes the demolition of two existing end-of-terrace houses and construction of a three-to-four-storey extension to an existing three-storey house, would be visually incongruous and would be out of keeping with the character, and seriously injurious to the visual amenities, of this residential conservation area. The proposal would also set an undesirable precedent for the demolition of habitable dwellings in residential conservation areas. The proposal would therefore be contrary to the provisions of the said plan and to the proper planning and sustainable development of the area.

2. The proposal provides for studio and one-bedroomed apartments in excess of the maximum 50% permitted under the Department of the Environment, Heritage and Local Government guidelines ‘Sustainable Urban Housing: Design Standards for New Apartments’, including the provision of a studio unit fronting on Seville Place with no private open space or setback from the public footpath. The proposed development would therefore be seriously injurious to the residential amenities of future occupiers and to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Dublin City Development Plan 2016-2022. The appeal site is zoned Z2 with a stated objective 'to protect and/or improve the amenities of residential conservation areas'.

Residential conservation areas have extensive groupings of buildings and associated open spaces with an attractive quality of architectural design and scale. The overall quality of the area in design and layout terms is such that it requires special care in dealing with development proposals which affect structures in such areas, both protected and non-protected. The general objective for such areas is to protect them from unsuitable new developments or works that would have a negative impact on the amenity or architectural quality of the area. The policy chapters, especially Chapters 11 – Built Heritage and Culture, and 16 – Development Standards, detailing the policies and objectives for residential conservation areas and standards respectively, should be consulted. Volume 4 of this plan contains the record of protected structures.

QH1: To have regard to the DEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2015) and 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009).

QH6: To encourage and foster the creation of attractive mixed-use sustainable

neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.

QH7: 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.

QH18: To promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.

CHC1: To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.

CHC2: To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage and will:

- (a) Protect or, where appropriate, restore form, features and fabric which contribute to the special interest
- (b) Incorporate high standards of craftsmanship and relate sensitively to the scale, proportions, design, period and architectural detail of the original building, using traditional materials in most circumstances
- (c) Be highly sensitive to the historic fabric and special interest of the interior, including its plan form, hierarchy of spaces, structure and architectural detail, fixtures and fittings and materials
- (d) Not cause harm to the curtilage of the structure; therefore, the design, form,

scale, height, proportions, siting and materials of new development should relate to and complement the special character of the protected structure

(e) Protect architectural items of interest from damage or theft while buildings are empty or during course of works

(f) Have regard to ecological considerations for example, protection of species such as bats.

Changes of use of protected structures, which will have no detrimental impact on the special interest and are compatible with their future long-term conservation, will be promoted.

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. 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.

Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting
2. Re-instatement of missing architectural detail or other important features
3. Improvement of open spaces and the wider public realm, and re-instatement of historic routes and characteristic plot patterns
4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area
5. The repair and retention of shop- and pub-fronts of architectural interest.

Section 16.4 Residential Density:

The Regional Planning Guidelines settlement hierarchy designates Dublin city centre and the immediate suburbs as a gateway core for international business, high density population, retail and cultural activities. The guidelines indicate that development within the existing urban footprint of the metropolitan area will be

consolidated to achieve a more compact urban form, allowing for the accommodation of a greater population than at present.

The Department of Environment, Heritage and Local Government (DEHLG) Guidelines on Sustainable Residential Development in Urban Areas 2009 supercede the 1999 Guidelines for Planning Authorities on Residential Density. In this context, Dublin City Council will promote sustainable residential densities in accordance with the standards and guidance set out in the DEHLG Guidelines on Sustainable Residential Development in Urban Areas and having regard to the policies and targets in the Regional Planning Guidelines 2010 – 2022 or any Regional Spatial and Economic Strategy that replaces the regional planning guidelines.

Sustainable densities promoting the highest quality of urban design and open space will be sought by the City Council in all new developments. The density of a proposal should respect the existing character, context and urban form of an area and seek to protect existing and future residential amenity. Public transport capacity will also be used to determine the appropriate density allowable.

An urban design and quality-led approach to creating urban densities will be promoted, where the focus will be on creating sustainable urban villages and neighbourhoods. A varied typology of residential units will be promoted within neighbourhoods in order to encourage a diverse choice of housing options in terms of tenure, unit size, building design and to ensure demographic balance in residential communities.

All proposals for higher densities must demonstrate how the proposal contributes to place-making and the identity of an area, as well as the provision of community facilities and/or social infrastructure to facilitate the creation of sustainable neighbourhoods.

Section 16.5 Plot Ratio

As with plot ratio above, higher site coverage may be permitted in certain circumstances such as:

- Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed.
- To facilitate comprehensive redevelopment in areas in need of urban renewal.
- To maintain existing streetscape profiles.
- Where a site already has the benefit of a higher site coverage.

5.2 National Policy

Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities (March 2018).

The Urban Development and Building Height - Guidelines for Planning Authorities (December 2018) build on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. It is acknowledged that increasing building heights has a critical role to play in addressing the delivery of more compact growth in urban areas, particularly cities and large towns.

SPPR1:

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 their statutory plans, areas where increased building height 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.

SPPR3:

It is a specific planning policy requirement that where;

(A) 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and

2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;

then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

(B) In the case of an adopted planning scheme the Development Agency in conjunction with the relevant planning authority (where different) shall, upon the coming into force of these guidelines, undertake a review of the planning scheme, utilising the relevant mechanisms as set out in the Planning and Development Act 2000 (as amended) to ensure that the criteria above are fully reflected in the planning scheme. In particular the Government policy that building heights be generally increased in appropriate urban locations shall be articulated in any amendment(s) to the planning scheme

(C) In respect of planning schemes approved after the coming into force of these guidelines these are not required to be reviewed.

Guidelines on Sustainable Residential Development in Urban Areas 2009

Appropriate locations for increase densities

Public Transport Corridors:

Walking distances from public transport nodes (e.g. stations / halts / bus stops) should be used in defining such corridors. It is recommended that increased densities should be promoted within 500 metres walking distance¹⁸ of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Minimum densities should be specified in local area plans,

and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities.

5.2. **Natural Heritage Designations**

None in the vicinity.

5.3. **EIA Screening**

5.3.1 Having regard to nature of the development comprising of the construction of 10 no. apartments, a retail unit and associated site works, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1 A third party appeal has been lodged by Noel & Bri McInerney, 37 Lower Oriel Street, Dublin. The grounds of appeal are as follows...

- The scale and intensity of development would be contrary to the Z2 zoning objective. The proximity of the commercial development and nature of use would impact adversely on the residential amenity of the appellants' property. The proposal would be contrary development polices including CHC4 and a number of objectives conservation the status of the area as concentration area and policies in relation to quality of housing.
- It is noted that there will be a loss of residential amenity through noise/disturbance, odour, overlooking and overshadowing. The proximity of the refuse store and courtyard to the appellants' property would have significant adverse impact.
- The appellant question the overall quality of the proposed residential units in the context of layout, access to light and overall residential amenity.

- It is noted that no car parking is provided for the development with existing issues regarding parking and traffic in area, which will be exacerbated by the proposal. There is a lack of clear details regarding traffic management both post and pre-construction.
- The demolition works proposed at no. 38 Lower Oriel Street will endanger the integrity of no. 37 due to their shared boundary. The appellant raises concerns regarding the overall impact of demolition and construction works on the structural stability of their property.
- There is no provision for an external fire escape.

6.2. Applicant Response

6.2.1 A response has been submitted by Leahy Planning Ltd on behalf of the applicant, Gerry Fay.

- There was a previous proposal refused on site (3519/18) which all buildings on site were demolished to construct a mixed use development with 13 apartments. The current proposal has regard to reasons for refusal and impact on the character of the area in that it retains the form of most of the existing structure on site. It is considered that the overall visual impact of the proposal is satisfactory in the context of the area and its status as a conservation area.
- The proposal is compliant with development plan policy in terms of zoning objective, an increased plot ratio is permitted in certain circumstances which would be met in this case and the density of the development is in accordance with Development Plan objectives.
- The proposal is compliant with national policy in the form of Sustainable Urban Housing: Design Standards for New Apartments and in particular SPPR 2 and 3 regarding the size, layout and orientation of apartments. The size, layout and provision of open space meets the standards under these guidelines in all cases. The proposal is also compliant with SPPR4 relation to dual aspect apartments.

- The proposal would be acceptable in the context of the visual amenities of the area with the design having regard to the location within a conservation area and the retention of the existing structure on site.
- The proposal would be satisfactory in the context of adjoining amenities with the nature of use compatible alongside existing residential properties and the proposal have no adverse impact in terms of being overbearing, resulting in overshadowing or reducing privacy.
- The commercial use is established on site and its retention in the current proposal would not be contrary Development Plan policy.
- The proposal is in close proximity to the city centre and existing public transport facilities and no dependent on vehicular traffic.
- The proposal will be subject to a fire safety certificate.
- It is noted that adequate construction management would mitigate against any adverse impact during the construction stage.

6.3. Planning Authority Response

6.3.1 No response.

6.4. Further Responses

6.5.1 Response by the appellants, Noel & Bri McInerney, 37 Lower Oriel Street, Dublin 1.

- The appellants reiterate concerns regarding the proposal noting that the adverse impact of the proposal on the character of the area, the existing structures on site should be renovated in a more complete manner than retention of facades and roof, the nature of the proposed units are insufficient in quality in context of demand for family orientated units and other similar larger developments proposed or permitted in the area.

7.0 Assessment

- 7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development/development plan/national policy

Density

Design, scale and visual impact

Quality of design/residential amenity/development control objectives

Adjoining amenities

Quality of design/residential amenity/development control objectives:

Car parking/traffic

Appropriate Assessment

- 7.2. Principle of the proposed development/development plan/national policy:

7.2.1 The appeal site is zoned Z2 with a stated objective “to protect and/or improve the amenities of residential conservation areas’. The provision of residential development is consistent with the zoning objective of the site and established uses on adjoining sites. The appellant questions the provision of a retail unit on site in the context of the zoning objective. Retail uses are not indicated as being either ‘permitted in principle’ or ‘open for consideration’. The existing retail use on site is a non-conforming use. I would consider that on the basis of the established retail use on site, that the proposal to retain such in the new development is satisfactory in the context of land use policy. I would consider that the principle of the proposed development being a mixed use development with one retail unit and 10 no. apartments is acceptable and the acceptability of the proposal depends on its physical impact in relation to visual amenities, adjoining amenities and the overall quality of the development proposed. These aspects of the proposal are to be assessed in the following sections.

- 7.3 Density:

7.3.1 The proposal entails the provision of 10 no. units on a site of 0.0389 hectares giving a density of 257 units per hectares. This represents a significant increase on prevailing residential density in the area. Development Plan policy and national policy permits for increased densities along public transport corridors. The appeal site is located a short distance from the city centre and is within the limits of the Royal Canal. The site is accessible to the city centre for pedestrian and cyclists, is a short distance from Connolly Station (800m) and the Mayor Square/NCI Luas stop (600) as well as being in close proximity to a number of bus routes. The appeal site is well serviced by public transport and is at a location where the city centre is accessible by pedestrians and cyclists.

7.3.2 The Guidelines on Sustainable Residential Development in Urban Areas 2009 note that appropriate locations for increased densities include public transport corridors with it “recommended that increased densities should be promoted within 500 metres walking distance of a bus stop, or within 1km of a light rail stop or a rail station. The capacity of public transport (e.g. the number of train services during peak hours) should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Minimum densities should be specified in local area plans, and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities”.

7.3.3 I would consider that the site is an appropriate location for higher densities and that such should not be below 50 units per hectare. The density proposed is above 50 units per hectare and is acceptable subject to the proposal being acceptable in terms of design, scale, adjoining amenity and compliance with development management standards. These aspects of the proposal shall be assessed in the following sections of this report.

7.4 Design, scale and visual impact:

7.4.1 The appellants raise concerns regarding the scale and of the proposed development in the context of the character of the area and its designation as a residential conservation area/Z2 zoning objective. The area is characterised by a variation in building heights with a mix of single-storey, two-storey and three-storey development. External finishes of brick is a common feature in area. The proposal entails a significant amount of demolition of existing structures on site, however it is proposed to retain the physical form and external finish of a number of structures on site including the three-storey structure fronting Seville Place (no. 77), the single-storey dwelling fronting Fourth Avenue (no. 60) and the facade of the two-storey dwelling fronting Lower Oriel Road (no. 38). The new structures on site are four-storey in nature with a pitched roof and the third floor level contained in the roof space.

7.4.2 The location of the site at the junction of Seville Place, Fourth Avenue and Lower Oriel Road, facilitates an increased height and level of development. The site can absorb a structure of increased height as proposed. The design proposal also entails a transition in height from adjoining development to the highest section, a four-storey portion at the junction of Lower Oriel Road and Seville Place. Along Fourth Avenue the structure of the single-storey dwelling at no. 60 is retained and then transitions to a three-storey block that ties in well with the existing three-storey structure at no. 77 Seville Place. Along Lower Oriel Street the transition is from the two-storey dwellings to a three-storey element retaining the facade of the dwelling at no. 38. The elevations were amended in response to further information with an increased level of brick on the facades fronting onto the public areas. I would consider that the overall design and scale of the approved development has adequate regard to the character and visual amenities of the area. The scheme is contemporary in nature while at the same retaining the character of existing structures on site and having elements that complement such. I would consider that the transitions in scale between existing adjoining development and the structures on site is well managed and that the corner location of the site allows for this increased scale without having an adverse impact on the character and visual amenities of the area. I would also note that the alteration of existing structures is acceptable and would note that none

of the structures on site are protected structures. I am satisfied that the retention of the physical form of some of the existing structures is sufficient in helping integrate the proposed development into its surroundings and that proposal would not be contrary the conservation objectives of the City Development Plan.

7.5 Quality of design/residential amenity/development control objectives:

7.5.1 The proposal entails the provision a part single-storey, part three-storey and part-four storey mixed use development with a shop unit and 10 no. apartments. The proposal entails demolition and alteration of existing structures on site. The proposal entails the provision of 1 no. three-bed unit (112sqm), 1 no. two-bed unit (91sqm), 6 no. one-bed units (52-60sqm) and 2 no. studio apartments (38sqm). The relevant and most up to date standards for apartment development are the Sustainable Urban House: Design Standard for New Apartments (March 2018). In relation to minimum apartment size the requirement is 45sqm, 73sqm and 90sqm for 1, 2 and 3 bed apartment units respectively and 37sqm for a studio apartment (SPPR3). All units proposed exceed the minimum standards It is noted that in order to safeguard higher standards that “the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%”. This is the case in regards to the proposed development.

7.5.2 Under the same guidelines “it is a policy requirement that apartment schemes deliver at least 33% of the units as dual aspect in more central and accessible and some intermediate locations, i.e. on sites near to city or town centres, close to high quality public transport or in SDZ areas, or where it is necessary to ensure good street frontage and subject to high quality design. Where there is a greater freedom in design terms, such as in larger apartment developments on greenfield or standalone brownfield regeneration sites where requirements like street frontage are less onerous, it is an objective that there shall be a minimum of 50% dual aspect apartments. Ideally, any 3 bedroom apartments should be dual aspect”. In this case seven of the 10 units are dual aspect including the three bed unit and compliant with the guidelines.

7.5.3 Appendix 1 contains minimum standards for private amenity space with a requirement of 5sqm, 6sqm and 9sqm for 1, 2 and 3 bed apartment respectively and 4sqm for a studio apartment. A minimum depth of 1.5 metres is required for balconies, in one useable length to meet the minimum floor area requirement under these guidelines. These standards are met in all cases. The apartments also meet all relevant standards in relation of internal storage space, ceiling heights, room dimensions outlined in Appendix 1 of the guidelines.

7.5.4 The guidelines note that “communal amenity space may be provided as a garden within the courtyard of a perimeter block or adjoining a linear apartment block. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year. Roof gardens may also be provided but must be accessible to residents, subject to requirements such as safe access by children. These facilities offer a satisfactory alternative where climatic and safety factors are fully considered, but children’s play is not passively supervised as with courtyards. Regard must also be had to the future maintenance of communal amenity areas in order to ensure that this is commensurate with the scale of the development and does not become a burden on residents”. It is also noted that that “for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality”. The City Development Plan (Section 16.10.3) notes in relation to public open space that that “in new residential developments, 10% of the site area shall be reserved as public open space”.

7.5.5 A communal roof terrace is provided at second floor level with a floor area of 58sqm and is accessible to all units and provides for at least 10% of the site area. I would consider that such is of sufficient quality to service the residential amenity of future residents and taken in conjunction with the level of private amenity space provided, the proposal is satisfactory in terms of the quantity and quality of public and private open space. I am satisfied that the overall quality of the proposal is satisfactory and

fully compliant with the relevant standards set down under Sustainable Urban House: Design Standard for New Apartments (March 2018).

7.5.6 Under the City development Plan the indicative plot ratio for the Z2 zoning is between 0.5-2.0 and for site coverage is 45%. The plot ratio of the current proposal 2.47/1 and site coverage is 96%. Given the location of the site relative to the city centre and public transport infrastructure, an increased plot ratio is acceptable at this location. I would also note that the site already has a high level of site coverage due to existing structures on site. I would consider that the plot ratio and site coverage proposed is satisfactory in the context of an acceptable physical impact in relation to visual amenities of the area and the amenities of adjoining properties, which are explored in other sections of this report.

7.5.7 The applicant in response to the appeal submitted revised plans providing an altered layout to the bin store area, an increased amount of space for cycle parking in response to condition no. 9 and a subsequent reduction in the floor area of the retail unit to 65sqm. The changes made are acceptable and provide for an increased level of bike storage over the original proposal.

7.6 Adjoining amenities:

7.6.1 The appellants raised concerns regarding the impact on adjoining amenities with concerns regarding scale in the context of being overbearing, causing overshadowing and overlooking. The nature of the adjoining use is noted as a concern with increased noise and disturbance and odour concerns due to the proximity of bin storage to the appellants' dwelling. The impact of construction is also noted as a concern.

7.6.2 The scale of proposed development relative to existing properties on adjoining sites consists of a three-storey flat roofed structure adjoining no. 37 Lower Oriel Road (appellants' dwelling) and a single-storey structure adjoining the existing dwelling at no. 62 Fourth Avenue. The three-storey structure adjoining the appellants' dwelling maintains the established building line and there is an external courtyard located

adjacent the boundary with the rear amenity space associated with no. 37. I would consider that the transition in scale from two-storeys at no. 37 to three-storeys on the appeal site would be acceptable in the context of adjoining amenities and that there is an adequate degree of separation between the remainder of new development on site and the appellants' property at no. 37. In the case of no. 62 Fourth Road the retention of the physical form and scale of the existing dwelling at no. 60 on the appeal site means there is no significant or abrupt transition in scale between the adjoining dwelling and the structure on the appeal site. I would consider that the physical scale of the proposed development relative to existing development on adjoining site is acceptable in terms of its physical impact and would not be overbearing or result in an unacceptable level of overshadowing. I would consider the context of the site in built up area in close proximity to the city centre is a relevant consideration.

7.6.3 In relation to privacy, I would note that the proposed development has adequate regard to the amenities of adjoining properties. The level of windows located in close proximity to the appellants' dwelling or any other property is minimal. The majority of windows are located overlooking the public roads serving the site. There is a single window serving a bathroom at first and second floor level on the rear elevation of apartment no.s 5 and 9 which immediately adjoin the appellants' property however the orientation of such is consistent with the established pattern of development and such if considered necessary could be fitted with obscure glazing. There is a single window on each of the first, second and third floor level facing north east serving the central corridor area. These windows could be fitted with obscure glazing. I am satisfied that the proposal has adequate regard to the amenities of adjoining properties and would cause no loss of privacy or reduction of residential amenity in relation to any adjoining properties.

7.6.4 I would consider that the provision of a retail unit in close proximity to residential development in a built up area such as this would not be out of character or detrimental to the amenities of adjoining residential properties. I would note that the retail use is established on site and has operated side by side with existing

residential development. I would also note that the provision of a bin storage area adjacent the appellants' dwelling would be acceptable. The area in question is a controlled and enclosed area and such should be sufficient to protect the amenities of the adjoining dwelling.

7.6.5 The appellants' raise concern regarding the impact of demolition and construction in terms of structural integrity. I would note that this is a construction management issue and the onus is on the applicant/developer to carry out the development without having an adverse impact on the structural integrity of the adjoining properties. I would consider that adequate construction management and proper engineering methods would deal this issue and would recommend a condition requiring a construction management plan to be submitted prior to the commencement of development as well a condition restricting construction hours. In relation to fire safety I would note that the development would be subject to the relevant fire safety legislation and the requirement for a fire safety certificate, such matters are not planning considerations.

7.7 Car parking/traffic:

7.7.1 The proposal is for commercial unit (shop) and 10 no. apartments. The site is a built up area a short distance from the city centre, located in close proximity to public transport infrastructure and accessible to the city centre by pedestrian and cyclists. The proposal does not entail the provision of any car parking on site. The site is located within Area 1 for the purposes of car parking. Maximum parking standards are set down under Table 16.1 with the requirement in Area 1 being 1 space per residential unit and for retail is 1 space per 350sqm (total required 11 spaces). These are maximum standards and deviation from such is allowed on basis of a number of criteria including location and accessibility to public transport.

7.7.2 As noted already the site is well serviced by public transport and accessible to the city centre by pedestrian and cyclists. The size of the site does not lend itself to the provision of any car parking with limited space for such. I would consider based on

the fact that the site is short distance from the city centre and in walking/cycling distance as well as being well serviced by public transport, it is not dependent on the car transportation. There is adequate justification for the lack of car parking on site. The appellants' raises concerns regarding overspill of car parking onto the roads surrounding the site. I would reiterate the view that the development by virtue of its location and accessibility to public transport is not dependent on car transportation.

7.8 Appropriate Assessment:

7.8.1 Having regard to the nature and scale of the proposed development and its 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.

8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

Having regard to:

- (a) The provision of the Dublin City Council Development Plan 2016-2022,
- (b) Sustainable Urban Housing: Design Standards for New Apartments-Guidelines for Planning Authorities (March 2018),
- (c) The existing pattern of development at this location,
- (d) The design, scale and layout of the proposed development, and
- (e) The submissions and observations on file,

It is considered that, subject to the compliance with the conditions set out below, the proposed development would be in accordance Development Plan policy, would not detract from the visual amenities of the area, would be acceptable in the context of the amenities of adjoining properties, acceptable in the context of its location in an

residential conservation area and be satisfactory in the context of traffic safety and convenience. The proposed development would therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by the further plans submitted on the 07th day of June 2019 and the 15th day of October 2019, and those submitted to the Board on the 08th day of January 2020, 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 commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interests of clarity.

2. The proposed development shall be amended as follows:

(a) The windows serving central corridor area on the north eastern elevation at first, second and third floor level are to be fitted with obscure glazing and maintained permanently as such.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity.

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

Reason: In the interests of visual amenity.

4. The streets and footpaths within the development shall comply with the requirement and specifications of the Design Manual for Urban Roads and Streets (DMURS) issue in 2013.

Reason: In order to comply with the guidance give in the Design Manual for Urban Road and Streets.

5. Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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 amenities of property in the vicinity.

6. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of permission.

Reason: In the interest of visual amenity.

7. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

8. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

9. Drainage requirements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: To ensure adequate servicing of the development and to prevent pollution.

10. 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 traffic management, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and the 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. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the residential or commercial units are made available for occupation.

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

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

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

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

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

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

Colin McBride
Planning Inspector

13th March 2020