



An  
Bord  
Pleanála

## Inspector's Report ABP 306142-19

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<b>Development</b>	Demolition of rear garage alteration to boundary walls, rear extension and side entrance, subdivision of rear garden and, construction of two storey, detached house with rooflights and terrace, entrance off Ovoca Road, new boundary walls and site works.
<b>Location</b>	13 Emorville Avenue, SCR, Dublin 8
<b>Planning Authority</b>	Dublin City Council
<b>P. A. Reg. Ref.</b>	4050/19.
<b>Applicant</b>	Mary Bell,
<b>Type of Application</b>	Permission.
<b>Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Kate Morris and Juan Valverde and Georgina and Alan Behan.
<b>Observers</b>	1. Stuart Hill, 2. Brid Grant, 3. Maud Meunier
<b>Date of Site Inspection</b>	13 <sup>th</sup> February, 2020.
<b>Inspector</b>	Jane Dennehy.

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## 1.0 Site Location and Description

- 1.1. The site has a stated area of 117 square metres and is formed from the rear garden of No 13 Emorville Avenue which is a corner site, on which a two-storey end of terrace house faces onto Emorville Avenue and Ovoca Road, the houses along the north side of Ovoca Road being split level villas. The rear side elevation overlooks a shed and garage structure in a side/rear garden behind a boundary wall extending eastwards beyond the house along the frontage onto Ovoca Road. There is an entrance in the wall in which there is an up and over garage door. Emorville Avenue and Carlisle Street are parallel to each other and perpendicular to Ovoca Road, to the north. There is a gated narrow laneway off Ovoca Road extending as far as South Circular Road between the rear boundaries of the Emorville Avenue and Carlisle Street properties.
- 1.2. The area is primarily characterised by early nineteenth century artisan, terraced, brick faced one and two storey and split-level terraced houses of modest size within a street network in a grid layout. There is parallel paid pay and display and residential permit parking is public parking along both sides of the streets.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for subdivision of the original plot for No 13 Emorville Avenue, demolition of the existing structure at the eastern end and for construction of a single and part two-storey brick faced, with a stated floor area of 675 square metres. It includes two first floor bedrooms one with a screened terrace facing towards Ovoca Road but set back from the boundary, along with fenestration at both levels, a green roof, private open space in a small, forty square metres' garden on the west side, and alterations to the existing entrance off Ovoca Road. The stated plot ratio 1.12 and the stated site coverage is coverage 85%.
- 2.2. The application includes a n Design and Planning Report, Daylight analysis

## **3.0 Decision**

### **3.1. Decision**

By order dated, 15<sup>th</sup> November, 2019 the planning authority decided to grant permission subject to conditions mainly of a standard nature but, they include a requirement for retention and protection of trees on the Ovoca Road frontage under condition No 5 and Condition No 6 provides for removal of exempt development entitlements.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The planning officer in his report indicates acceptance of infill development on the site in principle, subject to compatibility with the established built environment and satisfaction of current qualitative standards. The report of the Transportation Department indicated a recommendation for an additional information request on the cycle parking and refuse storage arrangements.

#### **3.2.2. Third Party Observations**

Multiple observer submissions were lodged in which the issues raised include concerns about compatibility with the established architectural character in the area and zoning objective, overdevelopment, overlooking and overshadowing, increased demand on parking facilities and tree loss. Three of these parties have lodged observations on the appeal.

## **4.0 Planning History**

4.1. There is no record of planning history for the site.

## 5.0 Policy Context

### 5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site comes within an area subject to the zoning objective Z2: *to protect and/or improve the amenities of residential conservation areas.*

Development Management Standards for residential development are set out Chapter 16 with guidance and standards for residential quality in section 16.10.2 and criteria for infill developments are set out in section 16.10.10. Objective QH 8 provides for higher density development which respects the character of surrounding development on vacant or under-utilised sites.

Policy CHC2 provides for ensuring the protection of the special character and integrity of protected structures. Guidance and standards on works and additions, internally and externally, to protected structures are set out in section 11.1.5.3 which provides for minimal intervention to and maximisation of retention historic fabric and original planform, protection of proportions within buildings and relative to adjoining buildings.

Policy CHC4 provides for the protection of the special interest and character of Dublin's Conservation Areas. The policies and objectives are elaborated on in detail in section 11.1.5.4 However, it is of note that the site location is within an area subject to the 'Z2' zoning objective which provides for residential conservation areas as distinct from statutory architectural conservation areas or areas designated as 'conservation areas' in the CDP.

The site location is in 'Area 2' for carparking standards as provide for in Table 16.1

### 5.2. Strategic Guidance

*"Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities, DOECLG 2018. and Houses."* (2018 Apartment Guidelines)

The guidance, standards and recommendations prevail if there is conflict with development plan/local area plan policies and objectives.

*“Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes” (2007) DOEHLG (Housing Guidelines 2007)*

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. An appeal was received from Hughes Planning on behalf of the appellant parties of No 24 Ovoca Road which is directly opposite the site and No 12 Emorville Avenue which is the adjoining property to the south side of the site on 12<sup>th</sup> December, 2019. It is requested that permission be refused outright. The submission is extensive in detail and length and the appeal grounds are outlined in brief below.

- The planning officer failed to conduct an assessment.
- The proposed development is substandard having regard to the Housing Guidelines (2007) with regard to floor area at 67.6 square metres which is below the limit of 70 square metres and below the limit in internal floor areas. Private amenity space at fifteen square metres in the courtyard but only fifty percent could be used. It includes refuse and cycle storage, the access route to which would be through the house is insufficient for three beds spaces and substandard.
- A dedicated off-street parking space is required according to Table 16.1 of the CDP. Lack of on street parking will be exacerbated in the area and the cycle parking arrangement is unsatisfactory and no reference to the transportation department’s recommendations was made in the planning officer report.
- Site coverage for the “Z2” zoned lands should be 45 percent according to section 16.6 of the CDP but the site coverage is 85%. The density for the area would be 166.66 due to the 0.006-hectare site size. The existing balance and character of the area will be compromised.
- The proposed development is in conflict with the ‘Z2’ zoning objective and would have detract from and have serious negative impact on the streetscape and groupings of buildings and character of the wider ‘Z2’ zoned area. He

proposed contemporary structure is incompatible with the existing built form and would set precedent for further detrimental infill development.

- The proposed development is overdevelopment which is overbearing and in conflict with section 16.10.9 of the CDP on corner/garden site development due to the attempt to replace a shed on restricted sized site. With the overbearing impact and incompatible design for the area it will affect and compromise the residential amenities at Nos 11, 12, 24 Emorville Avenue, Nos 23-37 Ovoca Road and No 14 Carlisle Street. At first floor level the separation distance is 14 metres from the rear façade of Nos 11 and 12 Emorville Avenue, 19 metres from Nos 23-26 Ovoca Road and 21 metres from No 12 Carlisle Street and No 27 Ovoca Road. The views from the windows of surrounding properties will be dominated by the proposed house. Bedroom 1 has a north facing window which is 17-19 metres from Nos 23-26 Ovoca Road causing direct overlooking of internal habitable rooms.
- The daylight study does not include proper assessment and was not sufficiently assessed by the planning officer. Details for December are not provided, and images have been cropped to mask the true extent of overshadowing during winter especially at No 12 Emorville Avenue.
- The proposed development is in conflict with section 16.10.10 of the CDP. The proposed overdevelopment of the restricted site, which is not an “appropriate infill site” having regard to section 4.2.2. of the CDP and it is not efficient use of underutilised land and a minor extension to the existing house only is feasible and it is not representative of a mews dwelling.
- The two-storey dwelling with its contemporary design and materials and the first-floor level terrace would adversely affect visual amenities of the period architecture in the streetscape. In support of the claim that the current proposal is unacceptable in this regard it there is precedent for refusal of permission. Reference is made to a prior unsuccessful application for an extension at No 19 Ovoca Road due to overbearing impact and reduced daylight and sunlight access at adjoining properties. (P. A. Reg. Ref 2786/15 refers.) Reference is also made to a prior unsuccessful application for a terrace of here mews circa 225 metres from the site. (P. A. Reg. Ref 3468/19

refers.) Permission should be refused, following this precedent. A potential buyer of a property for sale at No 27 Ovoca Road could attempt to build a similar house in the side/rear garden resulting on two substandard dwellings in close proximity on the street

- The proposed development would devalue property in the vicinity due to the size and impact on the streetscape character, overbearing impact and overlooking adjoining properties.
- With regard to the requirements set out under Article 22 (2) of the Planning and Development Regulations, 2001-2019 the application is invalid. There are procedural issues within that the site notices were erected outside the red line boundary shown in the site location map, and the wording on the notices is misleading; the application site and floor plan and elevations lack sufficient details of some internal measurements and openings including the entrance off Ovoca Road. The written statement of consent by the solicitor for the site owner, the applicant's mother who is deceased is not acceptable as the solicitor is not the site owner,

## **6.2. Planning Authority Response**

6.2.1. There is no submission from the planning authority on file.

### **Applicants Response**

6.2.2. A submission was received on 21<sup>st</sup> January, 2020 from Doyle Kent on behalf of the applicant in which the appeal is rejected. The applicant's case is outlined below:

- The location is not in a statutory ACA but is on land zoned Z2: (residential conservation area and there are protected structures in the area the street network in which is characterised by nineteenth century houses.
- The eastern facade to the existing house overlooks a substantial yard with a single storey shed at the eastern end adjacent to the rear lane which is closed off. Vehicular access is via a gateway in the boundary wall opening onto Ovoca Road. No 13 Emorville avenue was the applicant's family property and included a shop at ground floor level

- The house design is a recognisable modern intervention with finishes in brick to harmonise with the existing streetscape. The terrace is to be screened from public view and the window are designed to prevent overlooking.
- The planning officer conducted an assessment of the application including the shadow study, with reference to statutory policy and standards, the CDP and existing development and determine that the proposal was satisfactory with regard to footprint, scale an design, overshadowing and overlooking of adjoining properties the architectural character of the surrounding area and parking ad access. Final details of materials and finishes are to be addressed by condition.
- The proposed infill is consistent with national policy as set out in the National Planning Framework and the settlement strategy in the Regional Spatial and Economic Strategy for the Eastern and Midland Region the CDP and is appropriate for the inner-city location having regard to density and underutilised land. The gross density for Emorville Avenue is calculated at circa 38 units pe hectare which is modest.
- The contention as to adverse impact on the residential conservation area is unsubstantiated and rejected, The development is not incongruous, is modest in impact on the streetscape and compatible with Policy Objective CHC4 of the CDP and guidance for statutory ACAS, even though the area in which there is a mix of style but similar brick finishes is not so designated. It is an appropriate location for a dwelling that is subordinate, with high quality contemporary design with use of materials that reinforce the established character of the area.
- While the site is modest a well-designed small house is achieved, without adverse impact on visual amenities or property in the vicinity and there is little potential for precedent to be set due to the lack of additional opportunities for corner site/infills. The proposed development is consistent with the policies and standards in section 16.2.2.2 of the CDP for infill development.
- There is no potential for overbearing impact given the modest height and massing and no negative impact on the outlook from the houses on the north

side of Ovoca Road. The separation distances from adjoining properties are more than sufficient.

- Overlooking will not occur. The first-floor window facing the public street, opposite the front of the properties on Ovoca Road. It is reasonable for windows to overlook a public road. Overlooking of the rear of nearby properties has been avoided in the design.
- With regard to potential for overshadowing, the proposed small house to be located midway along Ovoca Road will not cause significant overshadowing as is demonstrated in the shadow diagrams. In wintertime in urban areas due to the low level of the sun, there is inevitably long shadow affecting all properties. A shadow diagram for December 21<sup>st</sup> is not warranted.
- The statutory Section 28 Guidelines. (2007) should be flexibly interpreted in that they were issued prior to the amendments to Section 28 of the Planning and Development Act. in 2018 when, under section 28 (1C) of the Act, mandatory SPPRS were introduced and "Sustainable Urban Housing: Design Standards for New Apartments, (2018) was introduced. The floor area at 67.5 square metres is below the target of seventy square metres but the high-quality design, which incorporates an open plan internal layout, an area of twenty-nine square metres with a high standard of residential space is appropriate. Storage space provision over both levels amounts to three square metres.
- The location is within Zone 2 and according to section 16.38 of the CDP and the transportation department report, (according to which the proposal for no on-site parking is acceptable) parking is restricted due to good public transport and walking distances. There are adequate parking spaces on the street.
- The two areas of open space at the terrace and in the courtyard provide high amenity standards. Adequate space is shown for both existing and proposed houses.
- Cycle storage in the courtyard parked or hung on a wall is acceptable for infill and there are stands in the rear that can be used by visitors and the Dublin Bikes Scheme is also available. Final details on cycle storage can be

addressed by condition. Bin storage within the courtyard is also acceptable and a screened area can be provided.

- Precedent cannot be taken from the two prior unsuccessful applications quoted to support the case for refusal of permission in that the circumstances are irrelevant. There are more relevant precedents which were referred to in the Design and Planning report provided with the application. These examples are: 19 Percy Lane, (P. A. Reg. Ref.4200/15,) P. A. Reg. Ref 4794/07 38-40 Avenue Road Portobello (P.A. Reg. Ref. 4794/07), 24 Terenure Road East, ( P. A. Reg. Ref. 1091/07) Arnott Street ( P. A. Reg. Ref. 5685/05) An additional relevant example is at 13 Collier Avenue Ranelagh. : P. A. Reg. Ref. 1788/04
- With regard to the contentions over procedural issues in the appeal, it is open to the Board to seek clarification by way of further information.
- The contentions as to devaluation of property is rejected
- Ample consideration was given to all matters of relevance in the planning authority assessment of the application

### 6.3. Observations

6.3.1. Three submissions were lodged, each of which are outlined below:

#### 6.3.2. **Stuart Hill,**

A submission was received from Mr Hill of No 15 Ovoca Road on 13<sup>th</sup> January 2020.

Mr. Hill indicates in the submission that he is in full support of the third party appeal in that he contends that the proposed development does not comply with minimum standards for internal habitable accommodation standards and external space within the site curtilage, site coverage, and policies for architectural heritage protection, infill, mews and corner site development. He also contends that the application is misleading and possibly invalid.

#### 6.3.3. **Brid Grant**

A submission was received from Ms Grant of No 22 Ovoca Road on 14<sup>th</sup> January 2020 according to which:

- The description on the application notices is misleading especially with regard to access to the street.
- The proposed development compromises the new garden at No 13 Emorville Avenue for which there are not details of access. The private open space is inadequate and there are unsatisfactory arrangements for cycle storage and refuse storage. The proposal is an overdevelopment for a three-person house with insufficient external space and excessive site coverage.
- The existing structure is below the level of the boundary wall whereas the proposed house will obstruct access to light at No 22 Ovoca Road. Especially in winter,
- There is no precedent for a first-floor terrace which is out of character with the Victorian architecture and the streetscape and views towards the spire on South Circular Road will be compromised.
- Existing excess demand for the on-street parking facilities in the area will be exacerbated by the proposed additional house

#### 6.3.4. **Maud Meunier**

A submission was received from Ms Meunier of No 26 Ovoca Road on 16<sup>th</sup> January 2020 the contents of which are outlined below:

- The proposed contemporary design and form of the house is out of character with the Victorian houses and streetscape on Ovoca Road and contrary to the Z2 zoning objective and policy CHC 4 in section 11.1.5.4 of the CDP and statutory requirements in section 81 of the Planning and Development Act, in respect of architectural heritage protection.
- The proposed development does not comply with the minimum standard for site coverage, internal space and outdoor space. No details are included for cycle and storage space. There are no details for the location proposed for the water storage tank.
- The first-floor terrace causes overlooking and is unacceptable at the location. The dwelling is overbearing and causes overshadowing of Nos 22-26 Ovoca

Road. Similar proposals were refused by the City Council (P. A. Reg. Ref. 3983/07 and 3696/99 refer)

- There would be no objection to a proposal for an appropriate and suitable extension to the existing dwelling at No 13 Emorville Avenue.

## 7.0 **Assessment**

7.1. The issues central to the determination of a decision and considered below are:

- Procedural Issues
- Dwelling Form and Design – Impact on Visual Amenities and established Architectural Character of the area.
- Overdevelopment on the site.
- Overlooking and Overbearing impacts.
- Overshadowing
- Carparking,
- Precedent.
- Environmental Impact Assessment Screening
- Appropriate Assessment

### 7.2. **Procedural Issues.**

7.2.1. The issues raised in support of the claim that the application documentation and notices are not fully consistent with the requirements of Article 22 (2) of the Planning and Development Regulations, 2001 as amended. It is considered that the rights and entitlements of third parties to participation in the planning process were not compromised. The assessment and determination of a decision are unaffected by the issues raised. It is open to the Board to request further information as indicated in the applicant's submission and resolution of dispute over procedural issues can also be sought through the legal system.

### 7.3. **Dwelling Form and Design – Impact on Visual Amenities and established Architectural Character of the area.**

7.3.1. The site is very confined and restricted but it is agreed with the planning officer that the scale, mass and design detail for the proposed dwelling is compatible with the established historic architectural character of the artisan houses and streetscape of

Ovoca Road and the surrounding road network of brick faced one, two storey and split level villas. The modest sized, contemporary dwelling, the footprint of which has a setback from the street frontage is relatively low profile and compliments rather than dominates the streetscape and surrounding existing built environment in which it is to be successfully integrated. In this regard there is also no objection to the presentation onto the street frontage of the first floor screened north facing terrace. It is therefore considered that there is no conflict with the 'Z2' zoning objective in this regard. Furthermore, even though the outlook would be is to be changed, it is not accepted that the views from properties on Ovoca Road would be adversely affected and that a case could be made as to negative impact on residential amenity or value of these properties.

#### **7.4. Overdevelopment on the site.**

- 7.4.1. It is agreed that the site size and its configuration is restrictive, but it is considered that a successful infill has been achieved in the dwelling design and site layout, notwithstanding the considerable site coverage involved. The relatively modest under-provision with regard to the target minimum floor areas for the internal spaces within the dwelling provided for in statutory guidance are justified, in the submissions of the applicant in that a high-quality internal layout of habitable accommodation is demonstrated, including adequate storage space over both levels.
- 7.4.2. The combined private open space provision by way of the balcony/terrace and the courtyard is reasonable in quantum and quality especially for an inner urban area infill having regard to the minimum standard requirement of fifteen square metres for a three-bed unit. There is no objection to provision for cycle parking and refuse storage within the courtyard which can be achieved in a good quality design. It should be noted that it is common in urban areas for cycle storage internal to be internal, sometimes on specially designed wall racks. Final details of refuse and cycle storage can be resolved by condition without adverse impact on the quantum and amenity potential of private open space.
- 7.4.3. The planning officer view that it can be satisfactorily concluded that the attainable standards of residential amenity for the proposed development is acceptable is supported.

7.4.4. It is agreed that the proposed development is in accordance with current national policy as reflected in the National Planning Framework and Apartment Guidelines 2018 for consolidation of urban areas and development of underutilised lands in accordance with sustainable development interests.

#### 7.5. **Overlooking and overbearing impact.**

7.5.1. The proposed development is such that potential for overlooking of rear private open space and rear and openings in rear and side elevation windows of adjoining properties.

7.5.2. The separation distances are more than adequate for an inner urban area and the footprint and orientation *vis a vis* surrounding properties are such that there is no question of an overbearing impact.

7.5.3. The objections of the occupants of residents of the properties on the northern side of Ovoca Road are perhaps prompted by the current enjoyment of the existing outlook from the front of these properties to the boundary walls with no development above. The private open space for these dwellings comes in the form of rear gardens. The upper level window which overlooks the street frontage would not cause undue overlooking of habitable space at the front of these properties and the terrace at first floor level is to be fully screened from views outwards or inwards.

#### 7.6. **Overshadowing**

7.6.1. Having regard to the submitted shadow diagrams and given the position and form and height of the proposed dwelling within the site and, significant separation from adjoining properties, notably those to the north and east, it is agreed that significant overshadowing attributable to the proposed development would not occur. The reference in the applicant's submission to the long shadow effect of low-lying sun in wintertime is reasonable as justification for the lack of provision of diagrams for 21<sup>st</sup> December.

#### 7.7. **Carparking.**

7.7.1. One on-site parking space accessed via the over and up door in the boundary wall is available for the existing dwelling with some modifications are to be made to facilitate the proposed development. Residential permit and pay and display parking are available throughout the surrounding street network. The omission of onsite parking

provision is fully consistent with the parking standard policies for the inner urban areas close to services and facilities and public transport options as reflected in the CDP and referenced in the Transportation and planning report. On the basis of observations in the course of the inspection and familiarity with the area on street parking facilities are well utilised but it is not evident of a persistent problem of demand exceeding supply. The impact on supply and on circulation generally attributable to an additional dwelling would be insignificant.

#### **7.8. Precedent.**

- 7.8.1. For precedent, both the appellant and the applicant have referenced prior planning applications, dating back as far as 2004 for residential and residential extensions at a range of locations in the south city area. The planning policy contexts for the earlier applications would differ somewhat from those which apply at present, having regard to national policy, strategic guidance and local policy and standards. Furthermore, the specific proposals, the site configurations and surrounding contexts are not sufficiently comparable for the purposes of taking direct precedent. The current proposal is best considered on its own merits.
- 7.8.2. It is further agreed that there is very limited potential, if any, for the proposed development, which itself is considered acceptable, to set precedent for infill in the immediate vicinity or surrounding street network extending as far as the former Meath Hospital, Heytesbury Street, Clanbrassil Street and the South Circular Road.

#### **7.9. Environmental Impact Assessment Screening.**

- 7.9.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

#### **7.10. Appropriate Assessment.**

- 7.10.1. Having regard to the planning history for the site, the zoning objective, the location of the site which is on serviced land, to the existing development on the site and in the vicinity and, to the nature and scale of the proposed development, no appropriate assessment issues arise, the proposed development would not be likely to have a

significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

In view of the foregoing, it is recommended that the planning authority decision be upheld, and that permission be granted based on the draft reasons and consideration and condition which follow.

## 9.0 Reasons and Considerations

- 9.1.1. Having regard to the Dublin City Development Plan, 2016-2022 according to which the site is located within an area subject to the zoning objective Z2 – Z2: “*To protect and/or improve the amenities of residential conservation areas*”, and to the architectural character and established pattern of development in the area it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of adjoining properties and the visual amenities and the integrity of the historic architectural character the area would be acceptable in terms traffic safety and convenience and, would 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, 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 interest of clarity.

**Reason:** In the interest of the residential amenities of the area.

2. Full details of the proposed arrangements for cycle and refuse storage shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of public safety and visual and residential amenity.

3. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

4. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

**Reason:** In the interest of visual amenity.

5. Details of the proposed arrangements for hard and soft landscaping and boundary treatment, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenities.

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

7. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

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

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

9. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City, in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act is applied to the permission.

**Jane Dennehy,**  
Senior Planning Inspector  
19<sup>th</sup> March, 2020.