



An
Bord
Pleanála

Inspector's Report

306562

Development	Demolition of warehouse and construction of a new 40 no. bedroom student accommodation development.
Location	17 Richmond Avenue, Dublin 3
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	4353/19
Applicant(s)	Desmond Connolly
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant	Desmond Connolly
Observer(s)	E. Black and others
Date of Site Inspection	26 th May 2020
Inspector	Suzanne Kehely

1.0 Site Location and Description-

- 1.1. Richmond Avenue is accessed from the north side of Richmond Road and extends about 200m where it turns east at right angles into Richmond Estate- an established two storey suburban styled housing development from which there is no through access. The site is located on the western side of this road about 140 from the junction. There is a mix of commercial and residential development along the Richmond Avenue – although it is predominantly residential. Commercial uses are concentrated on the western side between the site and the junction. Building height an scale varies including villa style ground level, two storey red brick, three storey over basement among the older building types in addition to more recent apartment schemes on both sides of the road which read as three storey to parapet in the streetscape but rising higher at a recessed roof level.
- 1.2. The site of 615.7 sq.m. is a backland site and is irregular in shape with a narrow road frontage of 5.438m and access at 3.386m before widening to its fullest width of just under 20m at around a 30m setback from the road. There is a large disused barrel-vaulted shed/warehouse extending across the width of the site which is along the rear boundary close to the boundary wall. There are also some low-level derelict sheds along the northern boundary of the access up to the frontage. The frontage is otherwise gated. The remainder of the site is a hard-surfaced yard but with extensive cracking and it is very overgrown. High walls of varying heights mark the boundaries with surrounding property. Some mature trees obscure the view from a publicly accessible road serving Richmond lodge to the west
- 1.3. The site is adjoined by a two-storey red brick detached dwelling at no.19 to the north. Also to the north, a derelict site, the address of which is described as lands to the rear of 21-29 in a current compulsory acquisition case, includes a number of unfinished multi-storey structures. There is an industrial type premises with a garage and car wash business located to the south. A two-storey residential housing development - Richmond Lodge is located to the west which is to the rear and accessed off Convent Avenue.

2.0 Proposed Development

2.1. The proposed student accommodation development is in the form of a five-storey block to be constructed partly along the rear western boundary of the site and partly stepped back by almost 11m. The total floor area of 1230 sq.m. provides for 40 units of varying sizes and an overall capacity for 44 bed spaces. Accommodation includes communal kitchen/living/dining areas and laundry rooms. Hard and soft landscaping are proposed and ancillary services include bicycle parking, bin storage, mechanical plant rooms, signage and lighting. A concrete attenuation tank (24 cubic metre capacity) is proposed along the boundary with no. 19 to the north near the entrance. A detailed description is provided in the Design Statement submitted with the application. Other reports include:

- Sustainability and Energy Report
- Fire safety and Access
- Engineering Infrastructure Report
- Shadow analysis drawings.

2.2. A set of plans was submitted with the grounds of appeal – on examination they appear to be the same and this report is based on the drawings submitted to the planning authority with the application.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the stated reasons:

- 1 The position of the proposed building to the rear of the site with the street frontage of the plot being used solely as pedestrian access would result in a poor level of streetscape presence on an already piecemeal street rendering the proposal a back land development. The development would be contrary to principles of good streetscape design and would not make a positive contribution to the built environment in terms of design quality, scale, height and relationship to adjacent buildings as required under section 16.10.7 of the City Development Plan. Furthermore the location of the waste storage and access adjacent to the gable of no. 19 Richmond avenue would have a

serious and undue impact on the amenities of that dwelling. The proposed development in itself and by the precedent established for this street would cause serious injury to residential amenities of the area and would be contrary to both the policies and objectives of the current Dublin City Development Plan and the proper planning and sustainable development of the area.

- 2 The proposed development in its position on this site proximity to shared boundaries and the location of windows serving habitable rooms would result in significant overlooking of adjoining sites at inadequate distances which would have both a serious and undue impact on existing residential amenities in the case of no. 19 Richmond Avenue and a serious and undue impact on the future amenities of any future occupants of any development at no. 15 Richmond Avenue as well as impacting on the potential layout and design of any scheme at that site and which may in turn impact negatively on the residential amenities of occupants of the proposed student housing. The proposed development would therefore cause serious injury to the residential amenities of the area and would be contrary to both the policies and objectives of the current Dublin City development Plan and the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. The report refers to an extensive planning history for the site and adjacent sites along the same side of the road. This includes permission for redevelopment at nos. 15 and 19 on each side.
- 3.2.2. While there is no objection to the principle of student accommodation there are fundamental issues with the building and layout that are considered insurmountable. These serious concerns relate to:
 - Lack of interaction with Richmond Avenue.
 - Lack of presence on streetscape which is piecemeal in form.
 - The previous permission for redevelopment of both 17 and 19 together had a better interaction with the street.

- The proposed layout would result in severe overlooking of no. 19 with 12-bedroom windows facing the rear of that property. This would be unacceptable by itself and also by way of restricting the development of no.19.
- There would also be overlooking of no.15 due to proximity. It is pointed out that permission was refused on that site also on grounds of overlooking. The proposed development would either sterilise redevelopment potential of part of no.15 or give rise to substandard development. The scheme appears to be reliant on the retention of the warehouse despite the planning history of that site.
- There are similar concerns regarding the interface with the site to the north to the rear of no. 21.
- An integrated design approach is required with either or both sites at 15 and 19 Richmond avenue.

3.2.3. It is concluded that the proposal would have an unacceptable level of overlooking in that it would result in either diminishing amenity or severely restricting future development. It would be an unacceptable approach to the streetscape. The scale of development may not provide for a high quality professionally managed student accommodation as outlined in section 16.10.7 and is accordingly inconsistent with the development plan.

3.2.4. Observation letter – J. Griffen, 23 Richmond Avenue objects on basis of:

- Overshadowing and loss of light,
- Significantly different to a previous proposal on the site with a block on the street frontage and a block to the rear which permitted light penetration to the north.
- Deterioration of enjoyment of adjacent homes
- Reference to large scale dumping and leaking oil barrels in the area which allegedly contaminated ground – previous owners investigated the ground and found substantial contamination.
- No car parking provision in a street that is narrow and impossible to pass with parked cars already on street due to amount of residential development.

3.2.5. Observation letter –

- E., J. and G. Black, 19 Richmond Avenue objects on basis of impact on no.19 as set out in grounds of appeal.

3.2.6. Technical Reports

- Roads Streets and Traffic Department: The Transportation Planning Division has no objection subject to conditions. A traffic management plan as part of a construction management plan could address construction traffic.
- Waste Management: no objection subject to conditions which may require standards of layout and design and management to be met. [Note: It is not entirely clear if the submitted plans meet with the requirements.]
- Drainage: no objection subject to conditions

3.3. Prescribed Bodies

Irish Water: No submission.

Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs: No submission

Irish Rail: No submission.

4.0 Planning History

4.1. The Adjacent Site

No. 15 Richmond

4.1.1. This site adjoins the subject site to the south for its full depth and there are a number of decisions relating to its redevelopment. Most notably permission was granted for a five-storey block with 18 units and basement car park. Permission was previously and subsequently refused for a more intense development. Most recently:

- PA ref 2340/19 refers to a refusal of permission for a mixed used development including 22 apartments in two no. 5 storey blocks, 2 commercial units and car parking. This was refused on grounds of overlooking of adjacent properties , and adversely effecting residential amenities, poor standard of development for occupants with regard to privacy, sunlight and daylight thereby setting a precedent for substandard development.
- P/A ref 6355/05 refers to a refusal of permission for a 5 storey mixed use development on grounds of 1) The design of the proposal would create a poor

quality residential environment, serious overlooking and a lack of privacy as opposing bedroom windows would be less than 4m apart and it would contain windows overlooking property to the north, including the private open space to the rear of no.19 Richmond Avenue.

- The depth and height of the proposal does not allow for a satisfactory transition between the adjacent apartment scheme currently under construction and the existing 2 storey house at no.19 Richmond Avenue.
- overdevelopment of the site as it contains insufficient off-street car parking and insufficient private open space.

21 and 29 Richmond Avenue lands to rear.

- 5120/08 refers to split decision to grant permission for alterations to approved apartment scheme (2575/03) and to refuse an additional storey in Blocks B and C for the reason: .The proposed development of an additional storey to both Blocks B and C would, by reason of their height and scale, be visually incongruous and would impact on the visual amenity of the protected structure of No. 31 Richmond Avenue as well as being contrary to the objectives of the Richmond Road Area Action Plan 2007. Permission has already been refused under 6547/06 for a similar development and permitting the proposed development would constitute overdevelopment and set an undesirable precedent for similar development in the vicinity. The proposed development would therefore be seriously injurious to the residential amenity of property in the vicinity, would materially affect the setting of a protected structure, and would be contrary to the proper planning and sustainable development of the area.

1-3 Richmond Avenue and 247-255 Richmond road

- PL29N.239753 refers to a grant of permission Demolition of existing buildings, construction of 4 to 5 storey mixed use development over basement comprising nursing home, retail and all associated works.

19 Richmond Avenue

- PA 4155/08 refers to permission to demolish house at no.19 and construct a five-storey apartment block.
- PA Ref 2177/09 refers to permission granted for four storey apartment block to rear of no. 19

5.0 Policy Context

5.1. National Policy and Guidance

5.1.1. The following section 28 Ministerial Guidelines provide guidance for multi-storey urban residential developments.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas including the associated Urban Design Manual.
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities as updated March 2018. (These refer to Dublin City Development Plan standards as an example.)
- Design Manual for Urban Roads and Streets (DMURS)
- Urban Development and Building Heights – Guidelines for Planning Authorities

5.1.2. The following policy documents are also relevant:

- National Student Accommodation Strategy, Dept. of Education and Skills, 2018.
- Dept. of Education and Science ‘Guidelines on Residential Developments for 3rd Level Students Section 50 Finance Act 1999’ (1999).
- Dept. of Education and Science ‘Matters Arising in Relation to the Guidelines on Residential Developments for 3rd Level Students Section 50 Finance Act 1999.’ (July 2005)

5.2. Dublin City Development Plan 2016-2022

5.2.1. The site is within an area where it is an objective ‘to consolidate and facilitate the development of inner city and inner suburban sites for mixed uses with residential as the predominant use in suburban locations and office/retail/residential the predominant uses in inner city areas.’ (Z10) The site is bordered to the west by a residential area where it is an objective ‘to protect, provide, and improve residential amenities.’(Z2)

5.2.2. **Student Accommodation:** In recognition of the complexity of housing demand and provision it is policy: To support the provision of high-quality, professionally managed and purpose-built third-level student accommodation on campuses or in appropriate locations close to the main campus, in the inner city or adjacent to high-quality public

transport corridors and cycle routes, in a manner which respects the residential amenity and character of the surrounding area, in order to support the knowledge economy. Proposals for student accommodation shall comply with the 'Guidelines for Student Accommodation' contained in the development standards. **(QH31)**

5.2.3. Other policies relating to educational facilities and student housing include:

(i) To promote Dublin as an International Education Centre/Student City, as set out in national policy, and to support and encourage provision of necessary infrastructure such as colleges (including English Language Colleges) and high-quality, custom-built and professionally managed student housing.

(ii) To recognise that there is a need for significant extra high-quality, professionally managed student accommodation developments in the city; and to facilitate the high-quality provision of such facilities. **(CEE19)**

(iii) To promote the Digital Hub and its environs as a destination of choice for digital enterprises, as an innovation district, with the necessary vibrant mix of uses including employment space, leisure, housing (including student accommodation), shopping, visitor accommodation and other uses. **(CEE23)**

(iv) to promote and enhance Dublin as a world class destination for leisure culture business and student visitors. **(CEE12)**

5.2.4. Section 16.10.7 sets out Guidelines for Student Accommodation. Variation no.3 of Plan increases the catchment for assessment from a 250m radius to 1km. The applicant will be requested to submit evidence to demonstrate that there is not an over-concentration of student accommodation within an area, including a map showing all such facilities within 1km of a proposal.

5.2.5. Building form and standards:

- In terms of density it is an objective: To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area. **(QH8)**
- Height is influenced by the immediate context in addition to standard height
- Car parking is not required but a mobility management plan is required. Bicycle parking must be at a rate of 1 space per 2 bed spaces.
- Safety guidance is set out in Appendix 14.

- Intensity of development is permitted at varying levels depending on development objectives for the area. For example, the indicative plot ratio for Z10 areas is 2.0-3.0 and site coverage is guided at 50%. 3.0 is the upper limit for the city and site coverage is up to 90%. There is provision for higher levels depending on the circumstances of the site such as, streetscape, services other land use objectives.

5.3. Natural Heritage Designations

5.3.1. The following European sites are within close proximity to the development site.

- North Dublin Bay SAC (000206)
- South Dublin Bay and River Tolka Estuary SPA (004024)
- North Bull Island SPA (004006)

5.3.2. Other Natura 2000 sites within a 15km radius are: Baldoyle Bay SAC (Site Code: 000199), Baldoyle Bay SPA (Site Code: 004016) Malahide Estuary SAC (Site Code: 000205), Malahide Estuary SPA (Site Code: 004025), Ireland's Eye SAC (Site Code: 002193), Ireland's Eye SPA (Site Code: 004117), Rockabill to Dalkey Islands SAC (Site Code: 003000), Glenasmole Valley SAC (Site Code: 001209), South Dublin Bay SAC (Site Code: 000210), Rogerstown Estuary SAC (Site Code: 000208), Rogerstown Estuary SPA (Site Code: 004015), Rye Valley / Carton SAC (Site Code: 001398), Howth Head SAC (Site Code: 000202), Howth Head Coast SPA (Site Code: 004113), Lambay Island SAC (Site Code: 000204) and Lambay Island SPA (Site Code: 004069).

6.0 Grounds of Appeal

6.1.1. The first party appeal has been submitted by the applicant's agent CDP Architecture. In a request to overturn the decision to refuse, the grounds of appeal comment on each of the points raised in the planning report and conclude that the proposed development seeks to increase density on an under-utilised site within a built-up area and in-close proximity to quality public transport links and existing facilities. In this way it is submitted to accord with policy QH8. It is further submitted that the proposal for much needed student city accommodation seeks to upgrade a site and street frontages along Richmond Avenue and Richmond Lodge and provides a

successful response to a vacant infill site and in this way it will further enhance and sustain the future of the site. It is submitted that the proposal accords with the development plan as it also respects the design and pattern of surrounding development and avails of and supports public transport through zero car parking.

6.1.2. More specifically

- No objections from technical departments.
- The appended Engineering report (appendix F) demonstrates sufficient drainage capacity and details relating to impact on adjacent building.
- No traffic concerns in relation to potential student parking due to controlled measures in place on street.

Overlooking

- 21m separation distance achieved between opposing windows to the rear of 19 Richmond Avenue.
- Based on the use and layout, overlooking of no.15 to the south is not an issue. Similarly the layout does not give rise to undue overlooking to the north.
- There are no directly opposing windows to the west of the site.

Overshadowing

- A shadow analysis drawing is submitted to demonstrate how overshadowing or loss of daylight to neighbouring buildings is not a concern.

Odour/vermin/sanitation

- No objections for the waste management division

Security

- A management company will manage the development and monitor with CCTV.
- The proposal is in line with development plan policy re proximity to 3rd level and transport (appendix B illustrates this)

Overall standard

- By ref to section 16.10.7 the proposal gives optimal daylight, landscaped open space at an average rate of 6.2sq.m of communal space per student in line with 5-7 sq.m. development plan guide.
- Excess of 4sq.m. of kitchen/living/dining per bed space.

Supply

- The nearest facility is 1.4km on foot. Provision of other accommodation is not within the 0.25km threshold of the development plan. [*Note: This was varied to 1km in Development Plan.*]
- Based on the housing shortage and the need for housing and student accommodation together with the limited availability of land and predisposition to at least 6 storey high development in an move away from low density urban sprawl, the proposal is justified.

Regeneration and enhancement of area

- The proposal can be justified having regard to section 6.5.4 and the brownfield nature of the site that is vacant and underutilised.
- The loss of the warehouse is not an issue and by reference to the planning report and what is considered to be appropriate boundary treatment. The provision of hard and soft landscaping addressed this.

Design Challenge

- The description of the proposal is not disputed however it is emphasised that the site has design challenges due to its configuration.
- The layout is considered appropriate in context of proximity of unfinished development and street frontage to west.

Impacts on property:

- Waste storage can be relocated from the side of no. 19.
- Student accommodation is a type of residential use and noise should not be an issue. A management company would oversee any issues in this regard.
- Overlooking and impact on redevelopment of no.15.: A 21m separation distance achieved between opposing windows with no. 19
- No. 15 is industrial use common areas and laundry rooms are along the western boundary so overlooking not a concern.
- Similarly internal plans address overlooking of unfinished site to north.
- There are no windows facing the western elevation.
- With respect to integration of site (nos.15 and potentially 19) it is stated that those sites are not in ownership and the scope of assessment should be confined to subject site.

Technical Department acceptability

- It is acceptable to the planning authority with respect to zero car parking, bicycle parking, traffic /construction traffic, waste management and all conditions of the transportation division and waste management division can be complied with.

Response to Reason 1 for refusal:

- Streetscape: Given the existing building pattern it is acceptable
- Sufficient depth to rear of site to accommodate development providing legibility and continuation of design.
- The design, scale and height incorporate a simple palette of materials appropriate to the massing and use while creating visual interest in a contemporary style and in a manner that contributes to the street.
- Given the mix of height (image 7) the five storeys are acceptable.
- Bins will be managed such that they will be emptied by removing directly from enclosures and then returned to enclosures. Another location is acceptable by condition. .
- It is a compatible use and scale in terms of protecting residential amenity: The shadow analysis demonstrates negligible impact, noise is not a case of concern due to management company and nature of use, section 5.2 refers to privacy and cleanliness will be addressed by a management company.

Response to Reason 2 for refusal

- There is sufficient separation between opposing windows in no.19.
- With respect to impact on no.15 the proposal takes account of existing information and not the intended plans as not within the applicant's control.

6.1.3. Appended Documentation includes the material on file in relation to the decision by the planning authority. A report prepared by Molony Millar Consulting Engineers responds to engineering issues. (appendix F)

6.2. Planning Authority Response

- No further comments

6.3. Observations

6.3.1. Elizabeth Black, June Black and George Black, as owners and occupiers of no. 19 Richmond Avenue, object to the proposed development on the following grounds:

- Impact on 100-year old building structure and services due to construction works:

- Impact on old clay sewage waste pipes and water supplies having regard to the proposed location of the concrete attenuation tank alongside the gable wall of their house and partly over these services which lie under (pre-exist) existing the structures.
- Impact on foundations of gable wall by virtue of building works and foundations for the concrete tank and bin storage enclosures
- Location of bin storage due to odour and vermin.
- One metre distance of block from garden boundary and consequent overlooking and loss of privacy.
- Impact on chimney and airflow as has happened due to development on adjacent site to north at no.21
- Loss of security due to exposure of their property. No increase in height of 6ft boundary wall despite large increase in activity and nature of use with influx of residential students.
- Increase noise and disturbance during construction and during use of property due to associated movement of people and traffic and anti-social behaviour – this is aggravated by the position of the block deep into the site and access arrangements together with the high level exposure of no.19.
- The proposal is unsuitable for the site and does not respect the scale of one of the last remaining redbrick dwellings. In the absence of such, No. 19 should be incorporated into a more comprehensive scheme to achieve higher density.

7.0 EIA Screening

- 7.1. The proposed development falls under the category of Class 10 under Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, being a type of Infrastructure project, (b)(iv) Urban Development. However, it is significantly subthreshold.
- 7.1.1. One of the submissions to the planning authority refers to historic oil leakage from barrels in the site. The environment division has raised no concerns in its report but does include conditions regarding potential soil contamination. The report of the Waste Management Division of the Planning authority requires a condition of

permission to be included that in the event of either hazardous soil or historically deposited waste being encountered during the construction phase that the contractor notify the council and provide a hazardous/contaminated soil management plan and to include particular details in addition to other conditions relating to construction and waste. . The applicant also clarifies that soil investigation will be carried out by engineers. In the letter dated 27th January 2020 appended to grounds of appeal (Appendix F) it is stated that a geo technical site investigation will be undertaken prior to any construction works commencing on site. the site investigation will include soil waste classification where samples will be taken for laboratory analysis and classified. All material will then be taken to licensed landfill site where it is subject to further testing.

- 7.1.2. These soil investigative measures are a fairly standard approach to redevelopment of former warehouse/industrial sites in the city. Soil contamination is I accept a potential risk if leached into soil and ground water. However, I consider the possibility of leaching into the Tolka River is very remote as it is about 150m south of the site and there is substantial intervening development including a road network. Accordingly the impact if any is most likely to be localised and addressed by the conditions of the Environment Division. In this case the works could also be seen to have a potentially positive impact if any in that they would address an existing issue rather than cause it.
- 7.2. On balance, having regard to the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 **Assessment**

8.1. **Issues**

- 8.1.1. This appeal is against the decision to refuse permission for student accommodation amounting to 44 bed spaces on a brownfield industrial warehouse site which is substantially back land and in an area that is increasingly residential in character. The issues relate to:

- Principle and nature of the proposed use.
- The height, scale and layout and interface with the surrounding development (overlooking and overshadowing, impact on future development). This can be assessed in terms of the different boundaries:
 - No.19 Richmond Avenue
 - No. 15 Richmond Avenue
 - Richmond Lodge
 - No 21 and lands
 - Richmond Avenue – Impact on streetscape
- Standard of development
- Traffic
- Appropriate Assessment

8.2. Principle and nature of the proposed use

- 8.2.1. The planning authority is generally satisfied that the student accommodation is acceptable in principle, however there is concern by the neighbouring objectors about the nature of student accommodation in the area and associated nuisance.
- 8.2.2. The site is zoned for mixed use which includes residential use and therefore as the proposal is for a residential type of development the proposal can, I consider, be seen as a positive development in principle in terms of achieving the land use objective for the area. In policy terms the provision of student accommodation also supports the development plan objective of providing for students and promoting the educational services of the city in line with national educational policy. While I note the justification does not refer to the 1km catchment, (as information is confined to a 250m radius as per the original Development Plan prior to variation,) I note that the character of the environs is predominantly residential comprising a mix of established family houses and newer and permitted apartment developments and in numeric terms the area would appear to be sufficiently robust to absorb 44 student bed spaces without unduly compromising its residential social fabric and character. This is however predicated on good design and management.

- 8.2.3. Accordingly, while acceptable in principle there is the issue of interface with immediate environs in terms of both nature and scale and nuisance factors. There is concern about disturbance due to the nature of the student use. This is attributed in part to the layout which brings external activity deep into the site. This concern is I consider understandable given the likely late night coming and going and groups gathering outside etc. There are no details of accommodation management that support any effective preventative and control measures regarding anti-social behaviour. Moreover there is an inherent design flaw/site constraint as I see it in that the proposed amenity open space to the rear which has little or no passive surveillance from the communal areas would support anti-social behaviour giving rise to disturbance to residences to the west.
- 8.2.4. While I consider the proposed student residential scheme on a former industrial site to have some merit in principle in the context of housing policy for the city, there are however significant issues relating to the scale, design, layout and the physical interface with surrounding development on a site that is constrained.

8.3. Interface with surrounding development

- 8.3.1. The key issues raised in the submissions and planning authority's considerations relate to overlooking and overshadowing, boundary treatment, structural matters and impact on amenity. By comparison to the existing development on site comprising of large dilapidated industrial warehouses and ancillary structures all along site boundaries, the proposed five storey block would result in a significant increase in the massing, height and dominance of structures on this site as viewed in close proximity from all sides. The nature and degree of impacts varies between the surrounding development and is best assessed in terms of the different boundary development:
- No.19 Richmond Avenue (observer to appeal)
 - No.15 Richmond Avenue
 - No.21 and lands
 - Richmond Lodge (objection to Planning authority)

8.4. No. 19 Richmond Avenue

- 8.4.1. This property comprises a two storey Victorian red brick property in residential use. It has an exposed gable end, the massing of which is scaled down by a double pitched roof while the chimney stacks bridge the height difference with the existing taller buildings to the north. It is one of the older properties along the road and adjoins with a terrace of the three larger residential properties (one unfinished) to the north. While I note a previous grant of permission for its demolition, the property remains in residential use and the owner has submitted observations objecting to the proposal on grounds of injury to amenities in addition to concerns about structural impact on services and pipes.
- 8.4.2. The garden extends almost 20m to the rear at its deepest point and just over 11m from its extension. There are upper floor rear windows overlooking the rear garden. The subject site wraps around no.19 in an 'L' and accordingly extends across the full width of the plot along its the rear garden. The proposed layout is such that the proposed easterly facing elevation of the student block extends 7.7m along the rear boundary which is 8.9m in width at a distance of about 1.1 – 1.2m. It also extends to a total width of over 17m with a stepped alignment resulting in 20m of façade wrapping around part of the rear garden of no.19. The resultant massing of a five-storey block on this footprint would be in marked contrast to the narrow deep plot of no. 19 and would by itself have a significantly overbearing impact.
- 8.4.3. The proposed layout incorporates multiple windows directly and obliquely overlooking the property. I refer in particular to the 12-bedroom windows at distances of 1.1-1.2m facing into the property which would give rise to significant overlooking. The applicant argues that a 21m separation distance is provided between the opposing windows, however almost 20m of this is within the boundary of no.19. The reliance on the undeveloped garden to the rear to provide a separation is not reasonable and would be unduly onerous by compromising the future extension of no.19. In view of the planning history and zoning it is reasonable to assume that the adjacent undeveloped sites would be redeveloped in time and that over the longer term an improved residential environment would emerge, however account has to be taken of the fenestration of extant property in residential use and the introduction of overlooking (and activity) and its overbearing impact as well as the context of longer-term development in accordance with the development plan.

- 8.4.4. I note the shadow analysis and accept that there is a fairly imperceptible difference in overshadowing of existing windows however it is clear that the proposed block would overshadow the rear garden of no.19 and would also have a significant overbearing impact and would also most likely compromise the quality of internal habitable space in any future expansion of this neighbouring site.
- 8.4.5. With respect to the location of the bins along the boundary, the applicant makes the point that this can be addressed by condition and that the planning authority had no objection to this. While I accept that the bins from the perspective of the waste management division are not insurmountable, I concur with the concerns of the planning authority in that the street frontage is restricted to the utilitarian services and serves to detract from the public realm. In this context I consider the siting of a row of bins along the boundary with no.19 to be a less preferential location within the site and to be unwarranted.
- 8.4.6. There are also concerns raised in the observation to the Board about the structural damage to no.19 and its services reliant on an old pipe network under the sheds which may have been previously part of the original curtilage of no.19. A separate objection to the planning authority also refers to concerns about contamination arising from oil leaks. The applicant has appended grounds of appeal with a short addendum to the more detailed engineer reports submitted with the application and this states that investigation will be carried out prior to commencement of work and that the attenuation tank can be relocated although no revisions to layout have been submitted. The matters in relation to structural damage are I consider a civil matter and not strictly within the scope of the Board's considerations. The detailed connection to the public sewers is a matter for the Drainage Division and Irish Water neither of which has raised any objection. The issue about potential contamination is addressed by the Environment Division as specified in the conditions of its report. In this regard, I also refer the Board to the Appropriate Assessment considerations in this report.

8.5. **No.15 Richmond Avenue**

- 8.5.1. It is proposed to construct the development within a distance range of 1.156m to 1.145m over a length of 13m with the remainder of the southern elevation of 8.265m in width set back about 8.5m from the boundary. There is a window each for a

kitchen, laundry and bedroom at each level facing close to the boundary with a further 3 large windows facing onto the boundary at each level at the greater distance. While I accept that the garage while losing some northern light would not be unduly impacted by overlooking in its current operation as a garage workshop, I do accept the concerns of the planning authority regarding the future likely development of the neighbouring site in view of its planning history.

8.6. No.21 and lands to rear

- 8.6.1. This site consists of unfinished development that was commenced on foot of permission for a four-storey apartment development. It is in a substantially derelict state and for the purposes of assessment should be treated as a brownfield site. The proposed block is directly south and at a distance of 1.211-1.148m from the boundary whereas the unfinished development block is about 2.5m from the boundary. Due to height, extent, proximity and orientation of the proposed development, the potential for overshadowing of both internal space and surrounding open space is considerable.
- 8.6.2. In terms of overlooking I note that two of the three proposed windows at each level in the proposed north elevation relate to stairwell landing areas and glazing could be opaque or high level to reduce overlooking potential. The third window is a bedroom window at a distance of 1.211m and would result in potential significant mutual overlooking at this distance in the event of south facing windows in any completed development of the unfinished block or replacement thereof. While I note the bedroom window is a second window – the other window is similarly close to the boundary with no.19 at a distance of 1.1m and could not be relied upon as a sole source of light for reasons outlined above.

8.7. Richmond Lodge

- 8.7.1. This is a two-storey town house development to the west of the site and south west of the proposed block. The gable end is close to the boundary. At present the rear of the barrel-vaulted structure on site is visible over the wall as viewed from the short private road and front of the terrace of houses. The road is shaped in a hammer head providing an open space for the benefit of the small development which have no private enclosed front gardens. It is primarily used for car parking. It is also

adjoined by a warehouse to the north - opposite the terrace of houses. With respect to the proposed development, in terms of height, the proposed 5 storeys close to and along most of the boundary would be an abrupt transition disproportionate to the environs of Richmond Lodge. Having regard to the existing warehouse, the proposed 5-storey development in such close proximity would present a bleak outlook and have an undue overbearing impact on the adjacent houses. Permission in these circumstances would be contrary the objective to protect residential amenities of these houses.

8.8. Richmond Avenue: Impact on Streetscape

- 8.8.1. The planning authority in reason 1 refers to the poor level of streetscape presence consequent on placing the accommodation block to the rear of the site. Such a layout has the consequence of an open frontage in the streetscape other than the bin storage which is also poorly sited in terms of impacts on No.19. The planning authority essentially sees this as a retrograde step as compared with previous permission on the site as part of a more comprehensive development which included demolition of no.19 and a block along the street frontage in addition to block to the rear at four storeys in height.
- 8.8.2. The applicant refers to site constraints of the reduced site (which I note has a road frontage of 6m) and the various building positions at present and the absence of a primary building line with which to align new development. Accordingly it is argued that the layout is acceptable in this context.
- 8.8.3. The visual integration with the streetscape is of particular concern to the planning authority and I concur with its assessment that the proposed layout does not make a positive contribute to the streetscape which has evolved with older large industrial warehousing and newer apartment schemes in place of more historic street frontage. The proposed development serves to perpetuate a fragmented streetscape rather than reinstate it in an orderly manner while providing for orderly development and ensuring protection of amenities of surrounding properties and lands.
- 8.8.4. The position of the accommodation block about 30m from the edge of the street would consolidate a fragmented streetscape. Having regard to the planning history which provided for a more comprehensive approach to redevelopment of this site, in

the absence of a more co-ordinated approach this constitutes piecemeal and disorderly development. It is missed opportunity to strengthen the streetscape and does not constitute sustainable development over the longer term.

8.9. Standard of Accommodation

- 8.9.1. While I accept that the site coverage and plot ratio are within acceptable limits quantitatively for the area, from examination of the drawings and site configuration I consider that by reference to the Development Plan guidance standards the proposal has substandard aspects. I would accordingly have some concerns about the overall standard within the development. I refer to the proposal of 9 bed spaces on two levels and 10 bed spaces on one level of the five floors. Accordingly the guidance of a minimum standard of 8 bed spaces for communal kitchen and living spaces is breached. The internal communal space at 32.2 sq.m at one level and 42.5sq.m on the upper levels regardless of bedspace would be below or close to the lower level of the 5-7sqm. guide. While I note there is additional external open space it would be enclosed by five storeys of development on two sides and by the gable end of Richmond Lodge houses on its western side and the warehouse to the south which combined would give rise to extensive overshadowing of this space (measuring at around 8.5m x 10m) for extensive periods during the academic term and could not be reasonably relied upon for the regular use and enjoyment of the residents. Its passive enjoyment is also limited in that it is not overlooked by the communal living areas.
- 8.9.2. As stated in the guidance documents, a key feature of successful Shared Accommodation schemes internationally is the provision of wider recreation and leisure amenities as part of the overall development. In this way residents enjoy access to sports and recreation facilities that are dedicated for use by the residents only and have the opportunity to experience a shared community environment among residents of the scheme. In this case however there are no details of how such can be provided. It is difficult to see how a scheme of around 40 bedspaces (if for example the 44 places are reduced to provide a better ratios of space) could meaningfully accord with provision for such facilities.
- 8.9.3. While there is much emphasis on the building regulations there is little or no information of the management of the facility other than to state it will be

professionally managed yet the development plan guidance is that all applications for student accommodation must be accompanied by documentation outlining how the scheme will be professionally managed including confirmation that all occupiers will be students registered with a third-level institution. Documentation must also outline how the scheme will support integration with the local community, through its design and layout.

- 8.9.4. In view of the proximity to the boundaries the potential for noise and disturbance is quite high and indicates that a high level of management may be required – there is no provisions for an office or security on site with the security system relying wholly on a security cameras. The absence of detailed management and integration does little to mitigate concerns of residents and ensure protection of amenities.
- 8.9.5. The other aspect of concern is the quality of accommodation over the longer term and its flexibility for adaptation as residential needs evolve over time. In the event of similar development on surrounding sites, the proximity of windows to the boundaries present issues of privacy, aspect, noise and restricted light penetration. Many windows for example would be less than 2m from high boundary walls. I do not consider this to constitute sustainable development into the future.
- 8.9.6. Notwithstanding the condition of the existing structures and site, the proposed development would I consider constitute a retrograde step in terms of building form and scale of development and would accord with proper planning and sustainable development of the area.

8.10. Parking, traffic and construction disturbance

- 8.10.1. While I note there is no objection by the planning authority in principle to no parking for the residents who would likely rely on public transport, there are access issues relating to service deliveries and drop off points. For example students are likely to rely on vehicular delivery on registration/commencement of residency and this may be by taxi or private car when arriving with bulky personal possessions. Cleaning and maintenance staff are also likely to need occasional access with vans. Disabled residents may similarly need occasional vehicular assistance. While the 4m entrance/access allows for vehicular access there is no provision for turning. I consider this should be addressed both in terms of layout and detailed management.

In the absence of such I consider the concerns of the residents regarding obstruction of a narrow road as raised in a submission to the planning authority are valid.

8.11. Appropriate Assessment

- 8.11.1. The site is not with a European site. There are a number of European sites within a 15km radius as referred to previously in this report. Of these, there is only a potential connection between the subject lands and European Sites in Dublin Bay via the existing surface water and foul water drainage network which discharges to the Tolka River and Poolbeg Peninsula. Several intertidal habitats for which European Sites in Dublin Bay are designated, fail to meet conservation objectives and water pollution is considered a threat of high importance.
- 8.11.2. The connection application form to Irish Water on file states that at present there is no water supply or wastewater connection and connections are sought for both. In the engineering report it is stated that it is proposed to connect into both the existing foul sewer and the surface water sewer in Richmond Avenue. Given that the stated site ground levels are above the road it would appear the excess run-off discharges to the public road which has gullies. In this case the surface water is proposed to be managed, collected and attenuated by roof and ground landscaping and an attenuation tank for excess run-off thereby limiting loading on the public surface water system. The proposal is in this context largely an improvement. In overall terms in the context of the city, I do not consider the proposed infrastructure associated with redevelopment of this brownfield industrial site for residential type use is likely to give rise to any significant effects.
- 8.11.3. Contaminants generated during construction works for the overall development may be drained or flow overland into the local network by virtue of the fact that all surface water run-off from the construction site would fall to the road at a lower level and drain to the existing intercepting sewer. In this context and also having regard to the distance from the site and assimilative capacity of both the River Tolka and Dublin Bay I consider the risk of a contamination even occurring during the construction phase (with standard construction practices) that would negatively affect water quality in either of these bodies is extremely low.
- 8.11.4. With respect to hazardous waste, as raised in the EIA screening I consider the risk of contamination from historic use at this site is mostly likely to be a localised issue and

remote from Dublin Bay and also quite physically separated from the Tolka River – a potential pathway.

8.11.5. Accordingly, having regard to the nature and scale of the proposed development which is for a residential scheme in place of an industrial development within an established urban environment and to the characteristics of the receiving environment I am satisfied that there will be no likelihood of any significant effect on any European sites during the demolition, construction or operational stages of the development, individually or in combination with other plans or projects and a Stage 2 Appropriate Assessment and submission of a Natura Impact Statement is not therefore required.

8.12. Conclusion

8.12.1. In conclusion, I concur with the planning authority that the site is constrained given its backland nature and configuration and that the layout and scale of development proposed in such close proximity to multiple boundaries would result in substandard development and have unacceptable impacts on surrounding property. While some issues could be addressed by way of further information, there is a fundamental issue with the overall site configuration and layout. While there is no objection with principle of redeveloping the site, to do so at such intensity would require a larger and less constrained site as for example in the case of previously permitted development otherwise the proposal is simply substandard and injurious to amenities. Accordingly, in these circumstances I concur with the planning authority that the proposed development is not in accordance with the proper planning and sustainable development of the area.

9.0 Recommendation

9.1. I recommend that planning permission should be refused based on the following reasons and considerations as set out below.

10.0 Reasons and Considerations

- 1 It is considered that the proposed five-storey student accommodation block in its position on site at a setback of 28m from the street and close to multiple boundaries on a backland site would constitute an excessive scale of development relative to surrounding development including existing dwellings to the north east on Richmond Avenue; the proximity of the proposed block and fenestration by reason of overlooking, overshadowing and overbearing aspect would seriously injure the amenities of surrounding properties and particularly the residential amenities of the dwelling at no.19. The proposed development would also give rise to a serious and undue impact on the future amenities of any future occupants of any development at no. 15 Richmond Avenue in addition to unduly impacting on the potential layout and design of any scheme at that site. Furthermore, the proposed development would be contrary to principles of good streetscape design and would not make a positive contribution to the built environment in terms of design quality, scale, height and relationship to adjacent buildings as required under section 16.10.7 of the City Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 2 It is considered that the proposed student accommodation with provision for 44 bedspaces on a constrained site in close proximity to boundaries would not provide for an adequate standard of development with regard to access to light and amenities and would therefore seriously injure the residential amenities of future occupants and would be contrary to policy QH 31 and Policy CEE19(ii) of the Dublin City Development Plan 2016-2022 which seek to provide for high-quality student accommodation. The proposed development would, therefore, be contrary to the provisions of the Development Plan and to the proper planning and sustainable development of the area.
- 3 The proposed five storey development in close proximity to the housing in Richmond Lodge to the south west would constitute an abrupt visual transition and would therefore be visually incongruous and overbearing and would

seriously injure the residential amenities of these properties. The proposed development therefore be contrary to the zoning objective for houses to the west which seeks to protect, provide and improve residential amenities under the current Dublin City Development Plan 2016-2022. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Suzanne Kehely

Senior Planning Inspector

July 2020