



An
Bord
Pleanála

Inspector's Report

ABP-307424-20

Development	Residential building providing for 73 no. apartments and all associated works.
Location	Elmpark Green, Merrion Road, Dublin 4.
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3743/19
Applicant(s)	Davy Platform ICAV
Type of Application	Permission
Planning Authority Decision	
Type of Appeal	Third Party
Appellant(s)	Stephen McArdle
Observer(s)	None
Date of Site Inspection	17/09/2020 and 21/09/2010
Inspector	Gillian Kane

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1.0 Site Location and Description

- 1.1.1. The subject site is located on the eastern side of Merrion Road, a large residential and commercial development of up to nine-storeys known as Elm Park. The overall Elm Park campus stretches from Merrion Road (east boundary) to the Elm Park golf course (western boundary) and St. Marys residential care centre to the north. The southern boundary of the site adjoins Heskin Court, a series of two storey terraces of sheltered / assisted living housing and the south-western section of the boundary adjoins the two-storey residential dwellings on Bellevue Park Avenue.
- 1.1.2. The overall Elm Park development has basement car parking stretching across the site. At ground level there are 6 no. buildings, mostly 9-storey with offices, apartments, a creche and an undeveloped two-storey leisure building.
- 1.1.3. The proposed development, whilst proposing some changes to the underground car park, is largely confined to the south-western corner of the site, between The Links, The Bay and the two-storey Giraffe creche building. This section of the site is heavily landscaped with a fence running mid-way. This fence demarcates the basement boundary underground. The two-storey dwellings on Bellevue Park Avenue are located to the immediate south of the southern boundary of the site.

2.0 Proposed Development

- 2.1.1. On the 13th August 2019 planning permission was sought for a residential development of 73 no. apartments in Block 3 of existing residential development Elm Park. The proposed three to nine-storey building of 8,035.26sq.m. building within a site of 0.56ha.
- 2.1.2. Details provided in the application form include:
 - Total site area: 5680sq.m.
 - New building floor area: 8035.26sq.m.
 - Proposed plot ratio: 1.4
 - Proposed site coverage: 20%
 - Proposed car parking spaces: 52 no., proposed cycle spaces: 73 no.
- 2.1.3. In addition to the architectural drawings and schedule, the application was accompanied by the following:

- Planning Report
- Architectural Design Statement
- Housing Quality Assessment
- Building Life Cycle Report
- Daylight / Sunlight Assessment
- CGI / Photomontages
- Engineering Services report
- Traffic and Transportation Report
- Outline Construction and Environmental Management Plan
- Flood Risk Assessment
- Energy and Sustainability Report
- Site Lighting Layout
- Landscape Report
- Tree Survey
- Construction and Demolition Waste Management Plan
- Operational Waste Management Plan
- Hydrological Assessment
- AA Screening Report

3.0 **Planning Authority Assessment**

3.1. **Planning Authority Reports**

- 3.1.1. **City Archaeologists Report:** Notes that the subject site is partially within the zone of archaeological constraint for the recorded monument DU023-053 (Church and graveyard site) and adjacent to DU023-001 (tower house site). Archaeological monitoring condition should be attached if permission is granted.
- 3.1.2. **Drainage Division:** Revised FRA required addressing any potential flood risk on the proposed playground, with design solutions to mitigate the potential risks from all sources including coastal, fluvial, (Elmpark Stream) and pluvial.
- 3.1.3. **Transportation Department:** Concerns regarding the impact of operational impact of the proposed development on the full campus proposals. Allocation of car spaces should be clarified. Overall floor plan of the commercial basement car park under the Seamark building required, showing the permitted 442 no. spaces. Any surplus of parking should be allocated to the proposed residential units. Car Parking strategy

required. Design of bicycle parking should be clarified. Increase in quantum of bicycle parking required. Mobility Management Plan should be requested. Servicing details should be clarified. Recommendation to request 6 no. items of FI.

- 3.1.4. **Planning Report:** Concern over the visual impact (view 03) of the development from the two-storey housing on Bellevue Park Avenue. One of the lower storeys should be omitted from the proposed nine-storey development. Applicant should be requested to address the impact on the sunlight / daylight access on floors 00, 01 and 02 of The Link building which is noted as significant in the Sunlight Assessment. 5 no. items of further information required.

3.2. **Prescribed Bodies**

- 3.2.1. None on file.

3.3. **Third Party Observations**

- 3.3.1. One objection to the proposed development was received. The grounds of objection referred to the site notice, traffic and parking, noise and disturbance, nature conservation, and landscape and recreation facilities.

3.4. **Request for Further Information**

- 3.4.1. On the 7th October 2019, the Planning Authority issued a request to the applicant to address the following 5 no. items:
- 1 Omission of one of the lower floors to allow for a more appropriate transition between the proposed development and the two-storey terraced properties on Bellevue Park Avenue.
 - 2 Details of the internal layout of the units in The Link building, to clarify the impact of the proposed development on their residential amenity.
 - 3 Details of storage provision for proposed apartments.
 - 4 Items requested by the Traffic & Transportation Dept.
 - 5 Items requested by the Drainage Division.

3.5. **Response to Further Information**

- 3.5.1. On the 9th April 2020 the applicant responded to the FI request as follows:
- 1 Set-backs are introduced to reduce any perceived over bearing. Resultant mass is stepped horizontally as well as vertically, providing a reduced

width and allowing a more appropriate transition. Results in an increase in 1-bedroom units (from 10 no. to 13 no.).

- 2 Internal layouts of The Links apartments provided. No significant impact on existing sunlight, daylight for the bedrooms at ground and first floor facing east in The Link building.
- 3 Revisions made to the internal configuration of the apartments to increase accessibility to storage areas from common areas.
- 4 Revised Traffic impact Assessment submitted. Confirms that the proposed development will have a negligible traffic impact. Car Parking strategy report submitted. 79 no. car spaces proposed. Bicycle spaces increased from 73 no. to 92. Access details of the basement ramp and a swept path analysis provided. Outline Mobility Management Plan submitted.
- 5 Revised FRA submitted.

3.6. Reports on File Following submission of FI

- 3.6.1. **Drainage Division:** No objection subject to conditions.
- 3.6.2. **Transportation Planning:** Response to FI is acceptable. A maximum of 73 no. car spaces should be permitted by condition. Some anomalies / discrepancies in the submitted plans noted. No objection subject to 6 no. conditions.
- 3.6.3. **Planning Report:** Item 1: Planning Authority is satisfied with the proposed setbacks instead of the omission of a floor. Item 2: Details regarding internal layouts of affected apartments in The Link and of internal storage details in the proposed development (item 3) are satisfactory. Notes the acceptance of the Traffic and Transport department but states that correct drawings should be requested by way of condition. Conclusion that the applicant has responded to the issues of concern and recommendation to grant permission subject to conditions.

3.7. Decision

- 3.7.1. On the 28th May 2020, the Planning Authority issued notification of their intention to GRANT permission subject to 13 no. standard conditions.

4.0 Relevant Planning History

4.1.1. None on the immediate area of the subject site but on the wider Elm Park Campus:

- **PL29S.243763:** Planning permission granted for development consisting of permission for: (a) change of use of the constructed Block HH (gross floor area 19,746 square metres excluding basement) previously permitted under planning register reference number 1539/02 from permitted hotel and private hospital use to office use (gross floor area 20,094 square metres), (b) construction of internal link bridges at third and fourth floor level to provide connections from the existing southerly vertical cores to the main floor plates at these levels, construction of previously permitted atrium at ground to second floor in the northern part of Block HH. These amendments result in an increase in gross floor area of 348 square metres, (c) relocation of internal cores within the permitted Block HH, (d) provision of a new main entrance at ground floor level on the southern part of Block HH. (e) construction of two number free standing canopies and provision of two number set down areas at each of the main entrance areas to Block HH, (f) revised treatment to the fenestration at ground and first floor and fifth, sixth and seventh floor to reflect existing modulation, (g) replacement of existing external doors at ground floor level with glazed double doors, (h) relocation and construction of previously permitted single storey pavilion structure (gross floor area 110 square metres) granted under planning register reference number 1539/02 and to develop it for use as a retail/café/restaurant unit. The pavilion will be located to the west of Block HH. Retention permission for: (a) revised layout of entrance ramp and access road arrangements to development, (b) revised location of permitted entrance to northern part of block at ground floor level, (c) omission of permitted entrance to hotel on western elevation at ground floor of southern part of block, (d) constructed canopy structure (12 metres in height) located to the west of Block HH, (e) revised vehicular and access arrangements at basement level, (f) revised layout to basement area including parking and cycle layout, revised location of cores and plant and installation of planter boxes. Basement to include 485 number commercial car parking spaces including 261 number spaces to serve Block HH. 136 number bicycle spaces to serve Block HH with associated showers and lockers and (g) retention of car stacking system at basement level which is to be closed off and remain out of use.

- **PL29S.201622:** Planning permission granted for Mixed Use Scheme comprising residential development, office buildings, hotel, private hospital and housing for the elderly; ancillary facilities include a conference centre, restaurant, leisure centre, crèche and pavilions and an underground carpark at Elm Park,

5.0 Policy Context

5.1. Project Ireland 2040: National Planning Framework

- 5.1.1. This national policy seeks to support the future growth and success of Dublin as Irelands leading global city of scale, by better managing Dublin's growth to ensure that more of it can be accommodated within and close to the city. Enabling significant population and jobs growth in the Dublin metropolitan area, together with better management of the trend towards overspill into surrounding counties.
- 5.1.2. The NPF recognises that at a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.
- 5.1.3. Of relevance to the subject application are the following:
- **National Policy Objective 2a:** A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs
 - **National Policy Objective 5:** Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.
 - **National Policy Objective 6:** Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

5.2. Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018

- 5.2.1. Reflecting the National Planning Framework strategic outcomes in relation to compact urban growth, the Government considers that there is significant scope to

accommodate anticipated population growth and development needs, whether for housing, employment or other purposes, by building up and consolidating the development of our existing urban areas.

- 5.2.2. The first of the 10 National Strategic Outcomes in the National Planning Framework that the Government is seeking to secure relates to compact urban growth. Securing compact and sustainable urban growth means focusing on reusing previously developed 'brownfield' land, building up infill sites and either reusing or redeveloping existing sites and buildings, in well serviced urban locations, particularly those served by good public transport and supporting services, including employment opportunities.
- 5.2.3. While achieving higher density does not automatically and constantly imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include the positive disposition towards appropriate assessment criteria that will enable proper consideration of development proposals for increased building height linked to the achievement of a greater density of development.
- 5.2.4. **SPPR1:** In accordance with Government policy to support increased building height 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 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.
- 5.2.5. **SPPR3:** Minimum Apartment Floor Areas:
- Studio apartment (1 person) 37 sq.m
 - 1-bedroom apartment (2 persons) 45 sq.m
 - 2-bedroom apartment (4 persons) 73 sq.m
 - 3-bedroom apartment (5 persons) 90 sq.m

- 5.2.6. **National Policy Objective 5:** Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.
- 5.3. The minister and the minister for transport issued **the Design Manual for Urban Roads and Streets (DMURS) in 2013**. Section 1.2 sets out a policy that street layouts should be interconnected to encourage walking and cycling and offer easy access to public transport. Section 3.2 identifies types of street. Arterial streets are major routes, link streets provide links to arterial streets or between neighbourhoods, while local streets provide access within communities. Section 3.3.2 recommends that block sizes in new areas should not be excessively large, with dimensions of 60-80m being optimal and 100m reasonable in suburban areas. However maximum block dimensions should not exceed 120m. Section 4.4.1 states that the standard lane width on link and arterial streets should be 3.25m, while carriageway width on local streets should be 5-5.5m or 4.8m where a shared surface is proposed.
- 5.4. **The Planning System and Flood Risk Management Guidelines for Planning Authorities (DOEH&LG 2009)**, distinguishes between three types of flood zones. Zone C in which the application site is located is the least susceptible to flooding.
- 5.4.1. **Dublin City Development Plan 2016-2022**
- 5.4.2. The subject site is zoned Z1, Sustainable Residential Neighbourhoods, which has the stated objective 'to protect, provide and improve residential amenities'.
- 5.4.3. Indicative site coverage is 45-60% for lands zoned Z1 and indicative plot ratio for is 0.5 – 2.
- 5.4.4. The site is also located within a Zone of Archaeological Interest and also within the Zone of Archaeological Constraint for the Recorded Monument DU023-053 (church and graveyard site) and adjacent to DU023-01 (tower house site) which are subject to statutory protection under Section 12 of the National Monuments (Amendment) Act 1994.
- 5.4.5. Policies of relevance include:
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.

5.5. **Natural Heritage Designations**

- 5.5.1. The Elm Park site is approx. 100m from the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024). That part of the site that is subject to the proposed new build is approx. 500m from the SAC and SPA boundary

5.6. **EIA Screening**

- 5.6.1. Having regard to nature and scale of the development and the built-up urban location of the site 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 against the decision of the Planning Authority to grant permission has been lodged by an agent on behalf of a resident of The Links, Elm Park. The appeal provides details of the site, planning history, the proposed development, and the assessment of the application by the Planning Authority.

6.1.2. The grounds of the appeal can be summarised as follows:

- The proposed development is not consistent with established building heights. The residential buildings to the south of the site are two-storey and will not be protected by the proposed set-backs. The subject site is surrounded by a varying degree of lower density developments and any exceedance of the building height maximums must be considered in context.
- The proposed development is excessive and unsuitable for the subject site. it results in overlooking and overshadowing of and loss of daylight to the dwellings to the south. These impacts cannot be mitigated. The proposed development does not comply with section 16.10 and policy QH21 of the development plan as the proposed apartments are not flexible and cannot cater for future changes.
- The proposed nine-storey development will seriously detract from the residential amenity of the immediate and adjoining properties, in contravention of the Sustainable Residential development in Urban Areas Guidelines 2009.
- Privacy and security are important elements of residential amenity. Guidelines require a 22m separation distance between two-storey dwellings. The Best Practice Urban Design Manual considers that assessing the impact of privacy is more important than establishing a minimum separation distance. The manual recommends that that rooms and private outside sitting areas are not directly overlooked by neighbouring residents.
- The proposed development gives rise to a loss of residential amenity and is inconsistent with the zoning objective. There will be a significant loss of residential amenity arising from the negative visual impact, the undue overlooking, loss of light, overshadowing and overbearing impact.

- The proposed development will undoubtedly cause a profound loss of light at the adjoining properties, particularly along Bellevue Park Avenue and in The Links. The proposed development would be visually obtrusive and shows that the design of the development has no regard for the appellants living environment.
- The scale of the proposed development is excessive and will give rise to significant visual impacts. The bulky and intrusive mass would be unacceptable in an existing residential area. The Landscape and Visual Impact Assessment demonstrates the serious negative visual impact of the proposed development. The proposed development will be significantly visually intrusive.
- The proposed development will significantly affect the appellants ability to enjoy the residential amenity of his property.
- The AA Screening Report uses data from three sources which may be outdated. The screening report refers to the Elm Park Stream but failed to provide details of Merrion Strand. Merrion Strand is 415m from the sit and has recently been classified as poor by the EPA for the fifth consecutive year. This has resulted in it being the first Irish beach to shut permanently. Section 4 of the 2019 EPA Bathing water quality report refers to problems at Merrion Strand arising from the polluted Elm Park and Trimleston Streams. The applicants AA refers to the Elm Park stream as having an unassigned classification. Reports from Dublin City Council regarding water quality at Elm Park stream between June 2019 and June 2020 show the water quality as considerably poor. Section 2.1.4 of the AA screening report states that the nearest feeding site for brent geese is 910m to the south east. The Board is requested to note that this species forage at Merrion Strand, 400m from the site.
- The proposed over-scaled building will devalue properties in the area, particularly those homes in the Z1 area.
- It is submitted that additional traffic generated by the proposed development will significantly increase the risk to residents of adjacent premises, pedestrians and street users. The proposed access is substandard. The single lane between the Bay and The Links is regularly blocked by construction traffic. The proposed development will give rise to increased levels of noise and air pollution.

- The proposed works will lead to noise pollution, negatively affecting the appellants residential amenity.
- The proposed development has very little green infrastructure, play equipment and designated recreational zones. This is in contravention of the green strategy as per the development plan.
- The proposed development does not provide for sufficient car parking spaces. Being in zone 3, 1.5spaces per unit is required. The proposed 52 no. spaces is significantly less than the required 109.5 no. spaces. Insufficient guest parking and electric charging points are proposed.
- The Board is requested to refuse permission for the proposed development.
- The appeal is accompanied by the following appendices:
 - Dublin City Council acknowledgment
 - Dublin City Council decision
 - Elm Park Stream Water Quality date June 2019 to June 2020
 - Letters of support for appeal.

6.2. **Planning Authority Response**

6.2.1. None on file.

6.3. **Observations**

6.3.1. None on file.

6.4. **Applicant Response**

6.4.1. The Applicant has responded to the third-party appeal. The response can be summarised as follows:

- A small section of the eastern most corner of the site is zoned Z6. It is proposed to use this area as incidental landscaping, which is a permissible use in Z6 zones.
- The proposed development forms part of the wider mixed-use Elm Park, providing much needed residential development at an appropriate scale on an underused site.

- The impacts of the proposed development on the surrounding area were considered. The subject site at 0.568ha is not 'restricted'.
- For height purposes, the subject site is located in the 'outer city'. Section 16.7 of the development plan provides for taller buildings where a pre-existing height exists. The proposed development at 9-storeys (28.67m) matches the existing buildings (35.8m).
- The proposed development steps down as it approaches the boundary with the adjoining two-storey development, thereby avoiding overlooking. The 3-storey southern gable is 11m from the boundary wall. The proposed development will not have any impact on the residential amenity of the appellant.
- The proposed apartments are east-west facing to provide passive surveillance. South facing windows on the second floor are of obscured glazing to avoid overlooking of adjacent gardens. Following the request for further information, the 4th, 6th and 8th floors were set back by 5m, 8m and 11m respectively. The south facing terraces are screened with 1.7m high fritted balustrades and planting. The proposed development complies with the 2009 Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities.
- The design strategy was cognisant of the visual impact and prevention of overlooking has been a primary design consideration. The proposed development provides a more appropriate transition from the existing 9-storey gable of The Links.
- The proposed development with a density of 128.5 unit per hectare is appropriate given the proximity of the subject site to services and transport links.
- The eastern-most apartments in The Link were determined to be fully compliant with the BRE guidelines on daylight & sunlight. There will be no undue impact appellants apartment, as it is further removed from the proposed development. Shadowing from the proposed scheme will not reach the appellants apartment.
- The existing campus provides an extensive variety of amenities and recreational uses. The subject site is currently unusable and inaccessible. The proposed development provides for a varied and multifunctional space.

- A Hydrological and Hydrogeological Qualitative Risk Assessment was submitted with the application. The report concluded that there is no direct source-pathway linkage between the development site and open water. There is no impact from the proposed development which could result in any change to the current water regime.
- The proposed development will have a positive impact on the area and may lead to an increase in property values.
- The Board is requested to grant permission.

Response to Car Parking, Traffic and Construction Impacts (Appendix 2)

- The proposed development was revised at FI stage to provide for 79 no. car spaces. This is reduced to 73 no. by condition no. 6(ii) of the DCC decision, equating to one space per unit. The development plan provides for 1.5 spaces as a maximum provision. The subject site is in close proximity to public transport and has mobility management measures which allow for 1 no. space per unit.
- A Traffic Impact Assessment was submitted with the application. The assessment tested the impact of the proposed development up to 2037. The assessment found that the impact would be negligible in terms of reserve capacity and queuing. The proposed apartments were conservatively estimated to generate less than 30 no. vehicle movements in peak hours, the junction of the R118 and Elm Park is signalised with dedicated pedestrian crossings. Further upgrades of the junction will occur as part of Bus Connects.
- A Construction Management Plan will be submitted to the Planning Authority as required by condition no. 6

Response to AA (Appendix 3)

- The AA screening report submitted with the application represents the best scientific knowledge available and is sufficient to inform and support the conclusions made.
- Issues regarding water quality have been addressed in the Hydrological and Hydrogeological Report. There is a difference between water quality for the Water Framework Directive and for the purposes of human health and bathing quality.

- Section 3.2.4 of the AA Screening Assessment has been updated to highlight the difference between inland feeding sites and inter-tidal feeding habitat of Brent Geese.
- The SPA is separated from the site by multiple tall buildings, urban development and the railway line. There is no potential for visual or noise disturbance to any species in the SPA. The inter-tidal foraging area of the Brent Goose is not any risk of disturbance. The subject site does not contain any habitat suitable to support Brent Goose.

6.5. Further Responses

6.5.1. The appellant responded to the Applicants response as follows:

- The proposed development does not achieve the zoning objective for Z1 lands.
- The exceedance of building heights is not justified as the structures will be located in close proximity to substantially lower buildings.
- The proposed playground will cause a noise disturbance and may lead to antisocial behaviour.
- There is no provision for guest parking. The proposed development will increase traffic generation.
- The applicant has not provided sufficient justification for the mitigation measures outlined in the AA report.
- The Board is requested to refuse permission.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Scale and Design and the Impact on Residential Amenity
- Traffic and Car Parking

- Appropriate Assessment

7.2. Principle of the Proposed Development

- 7.2.1. The subject site is zoned for residential development and has a planning history of residential development being acceptable on site. Residential development is permissible in principle on Z1 lands. That section of the subject site that is zoned Z6 is shown on drawing no. ELM-COA-RB3-00-DR-A0512 as being used for a communal amenity space. Open space is a permissible use in a Z6 zone.
- 7.2.2. Subject to all other considerations, the proposed development is acceptable in principle.

7.3. Scale and Design and the Impact on Residential Amenity

- 7.3.1. When originally proposed, the applicant sought permission for a nine-storey building adjacent to the 9-storey Links, stepping down to 7-storeys, then 5 and ultimately 3 storeys adjoining the southern boundary. A second, 4-storey in height building extends east from the main proposed building. The Planning Authority expressed concern about the impact of the proposed development on the adjoining two-storey Bellevue Park Avenue dwellings and requested that the development be revised to exclude one floor. In response, the applicant suggested that the Planning Authority's concerns may be due to the massing of the proposed development rather than the height. The applicant submitted a revised proposal which steps horizontally as well as vertically. The amendments on the 3rd, 4th, 6th, and 8th floors largely involve a change in proposed unit to allow for a roof garden / terrace in place of apartment floor space. The applicant states that this step back in mass, away from the sensitive southern boundary reduces the scale and massing of the development when viewed from the two-storey dwellings on Bellevue Park Avenue.
- 7.3.2. Drawing nos. 514 to 517 submitted at FI stage show the proposed revisions to each of the floor plans. On the fourth floor, apartment 404 is changed from a two-bedroom type A to a one-bedroom type S with a private terrace. On the 6th floor, apartment no. 603 is changed from a three-bedroom type J1 with a private terrace to a one-bedroom type T with a private terrace which uses a glazed screen of 1.7m to separate it from the adjoining green roof. On the 8th floor apartment no. 802 changes from a three-bedroom with private terrace type L2 to a one-bedroom type S1 with a

private terrace which uses a glazed screen of 1.7m to separate it from the adjoining green roof. It is considered that the visual impact of the revised southern elevation is reduced and softened when viewed from Bellevue Avenue. The mass of the building, as shown on the comparative photomontages submitted at FI stage steps gradually down to transition to the southern boundary. The proximity of the proposed development to the boundary (approx. 11m at the tightest point) is such that proposed screening measures such as the 1.7m high fritted balustrades and planting must be provided to prevent overlooking or the perception of overlooking.

- 7.3.3. It is considered that the proposed development will read as an extension of the existing Links building, albeit with a distinctive treatment at the southern boundary. The design aesthetic of the existing buildings on the campus is long, linear and uniform in height. The proposed building with its step down at the southern end is a design deviation but the location of the building in the south-western most corner means this will not significantly affect the overall visual impact of the campus. That the proposed building tips on an angle, mirrors that angle further north in the adjoining Links building.
- 7.3.4. Regarding the impact on light available to apartments in The Links building, the Sunlight and Daylight Analysis found that the impact would be slight to imperceptible. One location, a bedroom at ground level on the eastern elevation was found to have more than a 20% impact on vertical sky component (VSC). The average daylight factor for the room was determined to be 3.52%, which is in excess of the 1% recommended BRE guideline. Assessment of the proposed communal open spaces were found to be adequately sunlit throughout the year, within the meaning of the BRE Guidelines.
- 7.3.5. It is considered that the proposed development is an appropriate and acceptable use of under-used land, integrating successfully with the surrounding pattern of development. I am satisfied that no overlooking of adjoining properties will occur and no injury to residential amenity will occur.

7.4. **Traffic and Car Parking**

- 7.4.1. The appellant has submitted that the proposed development provides insufficient parking and that the proposed development will impact the traffic layout / capacity at the junction.

- 7.4.2. The application was accompanied by a Traffic and Transport Report. Following a request for further information a Traffic and Transport Assessment was submitted. Following the request for further information, the applicant submitted a parking strategy outlining the proposals for allocating spaces within the overall basement car park. Access to the basement car park is separated, with the entrance to the commercial car park at the front (east) of the site and access to the residential car park in the south-western corner of the development.
- 7.4.3. The proposed development of 73 no. residential units initially proposed 52 no. car parking spaces and 92 no. bicycle spaces. Following the FI request, proposed parking was increased to 79 no. Drawing no. ELM-COA-00-ZZ-DR-A-0504 shows the basement layout, the arrangement of proposed car parking and a breakdown of the allocation between residential, commercial, leisure centre, conference centre and creche uses at basement level. Condition no. 6 of the Planning Authority's decision reflects the report of the Transportation department that car parking provision should be reduced to 73 no., one space per unit.
- 7.4.4. The subject site is located in Area 3 (Map J of the development plan). Table 16.1 requires a maximum of 1.5 spaces per residential unit. Section 16.38.9 states that car parking standards are maximum in nature and may be reduced in specific mainly inner-city locations where it can be demonstrated that other modes of transport are sufficient for the needs of residents.
- 7.4.5. I note that section 16.38 of the development plan provides for a parking provision below the maximum where it does not impact negatively on the amenities of surrounding properties or areas and there is no potential negative impact on traffic safety. A Traffic Impact Assessment for the proposed development was submitted in response to a request for "an assessment of the potential operational traffic impact on the signalised junction at the entrance to the Elm Park Green Campus on the Merrion Road". Traffic surveys undertaken in October 2019 were used as base traffic flows and expanded to a 2022 year of opening and a 2037 Design Year. Trips likely to be generated by the proposed apartments are estimated to be 146 no. per day, split into 5 arrivals and 23 departures during the am peak and 9 arrivals and 4 departures during the pm peak. I note that the TIA classifies the pm peak as being 15.30 to 16.30 however Table 4 breaks the estimated figures into hourly totals. Adding this predicted traffic to the existing flows of the campus at the junction of Merrion Road

demonstrates that the junction will continue to operate within capacity with a negligible impact on queuing and operation of the junction. The TIA concludes that the proposed development will have no significant negative impact on the operation of the local road network.

- 7.4.6. Given the proximity of the subject site to the Dart line, to a number of bus routes on Merrion Road and to a number of large employers, it is considered that the provision of one space per residential unit is sufficient. I am satisfied that it has been demonstrated that the proposed development will not negatively impact the existing junction or traffic operation on Merrion Road.

7.5. Other

- 7.5.1. The appellant submits that the proposed development will cause excessive **noise and disturbance**. It is considered that the location of the subject site, in a large mixed use campus, within a developed urban area with a heavily trafficked transport route is such that a degree of daytime noise, including construction noise is normal and to be expected. I note the number of under-construction development sites in the immediate vicinity of the subject site.
- 7.5.2. The appellant submits that the proposed development has insufficient **green infrastructure and play equipment**. I note the proposal to provide a children's playground to the west of The Links and a community amenity space to the west of the existing creche. Drawing nos. Ch.08-DR-201, 202, 240 and 250 refer.

7.6. Appropriate Assessment

Applicants AA Screening Report

- 7.6.1. An AA Screening report was submitted with the application and subsequently updated in response to the third-party appeal. The report states that there are no non-native invasive species on the site, that the site is separated from the South Dublin Bay and River Tolka Estuary SPA by multiple tall buildings, other urban development and a railway line and therefore there is no potential for visual or noise disturbance to any species in the SPA. Regarding the appellants submission that Brent Goose are present on Merrion Strand, the report states that "the nearest known light-bellied Brent Goose inland feeding site is at Blackrock Park,... c.910m south-east of the proposed development." The report states that this feeding site is

not at risk of any disturbance from the proposed development. The report states that the subject development site does not contain any habitat suitable to support Brent Goose for feeding or other purposes.

- 7.6.2. The screening reports notes the Elm Park Stream within the Elm Park Golf Club, which ultimately discharges into the Dublin Bay near the Merrion Gates. The EPA Map Viewer states that the water quality of the Elm Park Stream is currently 'unassigned' while the water quality of Dublin Bay is 'good' and 'not at risk'. Responding to the appellants submission regarding water quality, the authors of the Screening report state that there is a difference between water quality for the purposes of the Water Framework Directive and for the purposes of human health and bath quality – which is not relevant to AA.
- 7.6.3. The AA Screening Report states that the proposed development will not cause habitat loss or habitat fragmentation. As there is no source-pathway-receptor link from the subject site to open water, and no indirect source-pathway-receptor link through public sewers, no change to water quality or quantity will occur. There is no potential for impact on Dublin Bay water quality status from either surface or foul waters from the proposed development. There is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of the European sites in Dublin Bay. No impacts on air quality will arise due to the separation distance, likewise displacement or disturbance impacts. The report concludes with a statement that there is no requirement for an Appropriate Assessment.

Appropriate Assessment

- 7.6.4. The overall Elm Park campus is approx. 100m from the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024). That part of the site that is subject to the proposed new build is approx. 500m from the SAC and SPA boundary. The **Conservation Objective** for the two sites is “to maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC and SPA has been selected”.
- 7.6.5. Details of the sites are as follows:

European Site	Site Code	Qualifying Interests
South Dublin Bay SAC	00210	<p>The site is an intertidal site with extensive areas of sand and mudflats. The sediments are predominantly sands but grade to sandy muds near the shore at Merrion Gates. The main channel which drains the area is Cockle Lake.</p> <p>Priority habits include:</p> <ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide • Annual vegetation of drift lines • Salicornia and other annuals colonising mud and sand • Embryonic shifting dunes
South Dublin Bay and River Tola SPA	004024	<p>The South Dublin Bay and River Tolka Estuary SPA comprises a substantial part of Dublin Bay. It includes the intertidal area between the River Liffey and Dun Laoghaire, and the estuary of the River Tolka to the north of the River Liffey, as well as Booterstown Marsh. A portion of the shallow marine waters of the bay is also included.</p> <p>Priority habits include:</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>), Oystercatcher (<i>Haematopus ostralegus</i>), Ringed Plover (<i>Charadrius hiaticula</i>), Grey Plover (<i>Pluvialis squatarola</i>), Knot (<i>Calidris canutus</i>), Sanderling (<i>Calidris alba</i>), Dunlin (<i>Calidris alpina</i>), Bar-tailed Godwit (<i>Limosa lapponica</i>), Redshank (<i>Tringa totanus</i>), Black-headed Gull (<i>Chroicocephalus ridibundus</i>),</p>

		Roseate Tern (<i>Sterna dougallii</i>), Common Tern (<i>Sterna hirundo</i>), Arctic Tern (<i>Sterna paradisaea</i>), Wetland and Waterbirds
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7.6.9. I consider it is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on European site, the South Dublin Bay SAC (site code 00210) and South Dublin Bay and River Tolka Estuary SPA or any other site and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

8.0 Recommendation

8.1.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

9.1. Having regard to the Dublin City Development Plan 2016-2022, according to which the location is subject to the Land-Use Zoning Objective Z1: 'to protect, provide and improve residential amenities', to the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March, 2018, to the National Planning Framework issued by the Department of Housing Planning and Local Government according to which new residential development in cities should be directed into locations within the existing built up serviced areas, the location of the subject site within a well serviced, inner suburban area in proximity to the city centre, public transport facilities and a good local road network, and a wide range of community and social facilities, to the size and configuration of the site which has the capacity to accept a development that is compatible with the established development in the area and, to the site layout, footprint, scale, mass, height and design of the proposed, it is considered that subject to the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would not adversely impact on the visual amenity or character of the area and would

be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 8th day of April, 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 interest of clarity.

2. 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.

Reason: In the interest of visual amenity.

3. Fritted glazing to all balconies and roof terraces on the southern elevation shall be implemented as indicated in the further information submitted to the planning authority on the 8th day of April, 2020.

Reason: In the interests of privacy and residential amenity.

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

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

5. The car parking facilities, hereby permitted, shall be reserved solely to serve the proposed development and shall provide for the following:
- (a) A total of 73 number car parking spaces shall be reserved to serve the proposed residential units. At least one clearly identified car parking space shall be assigned permanently to each residential unit and shall be reserved solely for that purpose.
 - (b) A number of car parking spaces, to be agreed with the Planning Authority, shall be reserved for persons with impaired mobility. The layout and design of such designated spaces shall be in accordance with the guidance set out in the document "Building for Everyone - a Universal Design Approach" published by the National Disability Authority.

Reason: To ensure that adequate parking spaces are permanently available to serve the proposed residential units and other commercial uses within the development .

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

Reason: In the interests of visual and residential amenity.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. Communal waste storage areas within the basement shall be designed and managed in accordance with the proposals within the Outline Operational Waste Management Plan lodged with the planning application. Waste materials shall be transferred to the designated surface level space on the day of collection only.

Reason: In the interests of residential and public amenities.

9. The landscaping scheme shown on the Landscape Plan 1 and 2 drawing numbers 201 and 202, as submitted to the planning authority on the 13th day of August, 2019, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. 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 amenity.

10. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

Reason: In the interests of visual and residential amenities.

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. Hours of work shall be confined to 0700 to 1900 Mondays to Fridays inclusive, excluding bank holidays and 0800 to 1400 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

Reason: In the interest of residential amenities of surrounding properties and in the interest of clarity.

13. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an

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

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

14. The 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.

Gillian Kane
Senior Planning Inspector

28 September 2020