



An
Bord
Pleanála

Inspector's Report PL29N.246697

Development	Change of use of 3no. Retail Units into 5no. Duplex Residential Units
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2504/16
Applicant(s)	Randalswood Construction Ltd.
Type of Application	Planning Permission
Planning Authority Decision	Refusal
Appellant(s)	Randalswood Construction Ltd.
Observer(s)	None
Date of Site Inspection	31 st August 2016.
Inspector	L. W Howard.

1.0 Site Location and Description :

- 1.1 Located within the north inner city of Dublin, approximately 1km from O'Connell Street, the application site fronts onto the north-western side of Summerhill (the R803), opposite its T-junction with Buckingham Street Upper, which runs south away from Summerhill. Contextually, the site fronts onto that section of Summerhill between its intersection with North Circular Road / Portland Row to the north east, and its junction with Rutland Street Lower to the south west.
- 1.2 At present the application site is developed with an existing 4-storey over basement building. The upper three floors comprise residential use / apartments (permitted under **Reg.Ref.No.1032.01** and subsequently **Reg.Ref.No.4205/04**), whilst the ground floor and basement levels comprise empty / vacant retail units.
The existing vacant retail units front onto the public footpath at Summerhill, which is elevated above the public road and separated from it by a low wall, and a set of steps.
Whilst the existing building on site is part of a Terrace, it is considerably wider and taller than its neighbouring adjacent buildings.
- 1.3 To the rear, the application site backs onto a development of five 2-storey terraced houses fronting onto Simmons Place. These are understood as being in the ownership of the applicant.
- 1.4 The application site forms part of a neighbourhood centre, which extends linearly along Summerhill on either side of the site.

2.0 Proposed Development :

- 2.1 The change of use / conversion of the retail units on the ground floor over basement level, to provide for residential units comprising five duplex apartments as follows :
- 4no. two – bedroomed units, and
 - 1no. one – bedroomed unit),
- all at ground floor and lower ground floor (former basement level), and all with terraces and balconies.
- 2.2 The proposed development includes internal and external alterations with associated site and engineering works.

3.0 Planning Authority Decision :

3.1 Decision :

Refused planning permission, for 2no. Refusal Reasons, as follows :

1. Located within a neighbourhood centre, and with the Zoning Objective Z3, the resultant development would be fully residential in nature, thereby failing :
 - to meet the objective to provide for neighbourhood uses, or
 - to provide for animation or activity at street level.Further, the proposed development would :
 - set a precedent for similar developments in neighbourhood centres
 - result in the erosion of designated neighbourhood centres
2. Residential units, including bedrooms and areas of private open space, below street level, would compromise the residential amenities, including privacy and security.

3.2 Planning Authority Reports

The report of the area planner can be summarised as follows :

3.2.1 Compliance with the Dublin City Development Plan 2011 :

- Residential land use is permissible within the Zoning Objective Z3.
- Emphasise that areas zoned Z3 provide local facilities such as small convenience shops and hairdressers, for example, within a residential neighbourhood.
- These local facilities can range from the traditional parade of shops, to neighbourhood centres, providing a focal point for a neighbourhood, and a limited range of services within approximately 5minutes of the local population.
- Emphasise consideration that neighbourhood centres provide an essential and sustainable amenity for residential areas. Therefore, it is important that neighbourhood centres be maintained and strengthened where necessary.
- An element of housing may be included within neighbourhood centres, particularly at higher densities and above ground floor level.

3.2.2 Development Standards for new residential development :

- In respect of Development Standards for new residential development set out at Section 17.9.1 of the Development Plan 2011, acknowledge that whilst the floor layouts and areas are considered to be adequate,

the Planning Authority had concern regarding the provision of habitable rooms and balconies below street level, effectively at basement level.

- In this regard, note was taken of the applicant's "Daylight / Sunlight Analysis", which stated an 'Average Daylight Factor' analysis shows that all rooms would meet the minimum requirements for kitchens and bedrooms, with one exception due to the room shape. Further, all rooms would comply with requirements regarding room depth, whilst shadow checks show compliance with the requirements.
- Notwithstanding the applicant's arguments regarding compliance with minimum requirements for sunlight and daylight, the Planning Authority sustain concern regarding the quality and provision of natural light to bedrooms, which in themselves would be a full floor below street level.
- Deduce that in order to provide for bedrooms at basement level, the proposed development appears to involve excavation into the existing public footpath, part of which is shown as being in the ownership of the applicant's.
- Consequently, the triangular balconies below street level, would be enclosed on two sides by the building, and on the third side by a wall created by the excavation out into the footpath.

3.2.3 Residential Amenity Impact :

- Concern that the proposed development would result in litter or debris being thrown into areas of private open space below street level. Further, a security risk to residents could result.
- Having regard to the site frontage onto a busy inner city street, and to the Z3 zoning objective, assert the view that active non-residential uses at street level would be preferred.

3.2.4 The Neighbourhood Centre Zoning Objective :

- The purpose of the Z3 zoning objective is to provide for active uses which meet a need for local shopping, and other complementary services locally.
- Strong reference made to large residential population within the Summerhill area
- Whilst noting the sites proximity to the O'Connell Street city centre retail area, assert the Planning Authority expectation that this area would provide for higher order retailing, including comparison shopping.
- Rather, the function of a neighbourhood centre is to provide for local convenience shopping, for a local population within a walking catchment.

- Further, the provision of active land uses at street level, as part of a mixed residential and retail development, would help to regenerate the surrounding area, and to animated the street.
- Clarify that whilst the ideal, preferred use is local convenience shopping, other active uses such as own-door offices, or retail service units would also be considered.
- Contextually, the site is located centrally, within a larger neighbourhood centre area, and faces the junction with Buckingham Street. The local area includes older two-storey terraced buildings with uses at ground floor level including takeaways and ethnic foodstore.

3.2.5 **Conclusion :**

Accordingly, the proposed development would not be in keeping with the Development Plan 2011 provisions, or with the proper planning and sustainable development of the area. Therefore, planning permission should be refused.

3.3 **Other Technical Reports**

3.3.1 Internal :

Drainage : No objection, subject to Conditions
Roads / Traffic : None received.

3.3.2 External :

Irish Water : None received.
Irish Rail : None received.
Transport Infrastructure Ireland : None received.

3.4 **Third Party Observations**

None received by the Planning Authority

4.0 **Planning History :**

Reg.Ref.No.4205/04	<p>Permission granted to McGrath Group Developments Ltd (05/12/2005) for –</p> <ul style="list-style-type: none"> • Retention and completion of <ul style="list-style-type: none"> – basement car park under construction with access from Rutland Place
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- basement and ground floor retail area at No. 80 Summerhill and
- 1 no. apartment at first floor level at No. 80 Summerhill.
- – Permission to re-organise the layout of 3no. apartments at first floor level of No. 81 / 83 Summerhill,
- Permission for 1 no. new 2-bedroom apartment at second floor level of No.80 Summerhill,
- Permission to re-organise the layout of 3 no. apartments at second floor level of No. 81/83 Summerhill,
- Permission for 3 no. 2 bedroom and 1 no. 1 bedroom apartments at no. 80/83 Summerhill, and
- An alternative elevation to Summerhill at No.80/83,

all at the development under construction in terms of **Reg.Ref.No.:1032/01**, at No. 80/83 Summerhill and Simmons Place, Dublin 1.

The decision to grant permission was upheld by An Bord Pleanála on appeal.

Reg.Ref.No.3729/01

Construction of underground carpark for 12no. cars to serve the 5no. townhouses and 9no. apartments permitted under **Reg.Ref.No.: 1032/01** – Application Withdrawn.

Reg.Ref.No.1032/01

Permission granted to McGrath Group Developments Ltd (17/10/2001) for :

- retail and residential development at 81-83 Summerhill comprising :
 - 6 no. 2 bedroom and 3 no. 1 bedroom apartments situated over
 - no. retail units with basement levels,
- 5no. 3 bedroom townhouses incorporating basement levels and external landscaping at 18-22 Simmons Place, Dublin 1, and
- to demolish existing wall on Simmons Place (in front of site 18-22) and to rebuild a wall located at Simmons Place to form cul-de-sac, subject to Conditions.

The decision to grant permission was upheld by An Bord Pleanála on appeal.

5.0 Policy Context :

5.1 The DoHPC&LG Guidelines for Planning Authorities – “Sustainable Urban Housing : Design Standards for New Apartments” (December 2015) are relevant.

6.0 Development Plan :

6.1 Dublin City Development Plan (2011 – 2017) :

10.5.4 Retail – The Wider City :

- Emphasise the important role of retail in the creation of vibrant centres and sustainable compact neighbourhoods, for residential communities.
- Council to enable appropriate retail provision throughout the City in accordance with the settlement and retail hierarchy, as set out in the core strategy and retail strategy.

Policy RD19 • to maintain and strengthen the existing neighbourhood centres, and

- to revitalise, re-invent and prevent the obsolescence of older neighbourhood centres.

Policy RD20 • encourage local and / or corner shops in residential areas, where there is an existing deficiency of retail provision.

10.5.5 Retail – Convenience Shopping :

- Good quality convenience, speciality and retail service shopping to cater for daily shopping needs is critical to attract and retain residents, especially families with children.

Policy RD24 • promote and facilitate the provision of accessible good quality convenience shopping with strong choice and competition within the inner city area,

- to meet the needs of the increased population living in the city, and
- to reduce the numbers commuting out of the neighbourhood into the City Centre Retail Core and the Outer Suburbs,
- to meet their convenience needs and to attract and retain families with children in the City.

Policy RD25 • promote and facilitate supermarket shopping, primarily in neighbourhood centres

15.10.3 **Neighbourhood Centres – Zone Z3 :**

The application site is designated with the Land-Use Zoning Objective **Z3** – “Neighbourhood Centres – To provide for and improve neighbourhood facilities”.

The General Objectives for Neighbourhood Centres include :

- the provision of local facilities within a residential neighbourhood and range from the traditional parade of shops, to neighbourhood centres
- the focal point for a neighbourhood
- the provision of a limited range of services within approximately 5-minutes walking distance of the local community
- “... provide an essential and sustainable amenity for residential areas and it is important that they should be maintained and strengthened where necessary”.
- “... are the primary building block to achieving sustainable development”.
- “... may include an element of housing, particularly at higher densities, and above ground floor level”

Z3 Permissible Uses include : Child Care Facility, Home-Based Economic Activity, Live Work Units, Medical and related Consultants, Office (max. 300m²), Residential, Restaurant Shop (Neighbourhood).

17.9 **Standards for Residential Accommodation :**

17.9.1 **Residential Quality Standards :**

A1 The Unit – All Residential Development :

1. Floor Areas :

- 1-bedroom unit – 55m²
- 2-bedroom unit – 80m² to 90m²

2. Aspect, Natural Lighting, Ventilation and Sunlight Penetration :

- Living rooms and bedrooms shall not be lit solely by roof lights.

- All habitable rooms must be naturally ventilated and lit.
- Design and layout to be guided by the principles of Site Planning for Daylight and Sunlight, A good Practice Guide (Building Research Establishment Report – 1991).
- Staggering of balconies on the facade of a building has a positive effect on sunlight / daylight.
- 85% of units must have a dual aspect

A2 The Unit – Apartments only (in addition to A1 Standards);

1. Mix of Residential Units :

A maximum of 20% one bedroom units.

2. Private and Communal Open Space :

Balconies or terraces should :

- be “functional, screened, have a sunny aspect, and allow all occupants to sit outside”; and
- “face predominantly South or West”
- primarily located adjacent main living areas to extend the apartments living space (a table and two chairs).
- “balustrades and other sheltering screens should be designed with a proportion of solid, translucent and transparent materials to allow views and casual surveillance of the street ... while providing for security and privacy”.
- minimum sizes for balconies :

	Area	Depth
1-bedroom unit	6m ²	2m
2-bedroom unit	8m ²	2.5m

6.2 The **Draft Dublin City Development Plan (2016 – 2022)**, enables clarity and continuity of strategic and development policy, objectives and standards for Dublin City, through the next statutory Development Plan cycle.

7.0 Natural Heritage Designations :

None.

8.0 The Appeal :

8.1 Grounds of Appeal :

The grounds of appeal can be summarised as follows :

8.1.1 New Residential / Housing Development :

- Emphasise clear demand for new housing in Dublin and that this has been identified as a national, strategic priority.
- The biggest proportional demand increase is for smaller homes required for single persons and two people. The proposed development directly addresses the need for smaller single and double occupancy housing units.
- The proposed development “provides for a high quality designed residential development at an appropriate level of density for a city centre location that is close to a range of employment, social and community services and is well served in terms of public transport”.
- The development of residential accommodation accords with the Z3 zoning objective, and with the proper planning and sustainable development of the area.

8.1.2 Location :

- The application site enjoys excellent strategic connectivity with, and accessibility to the Dublin City Centre, as well as the Dublin Docklands area.

8.1.3 Refusal Reason No. 1 :

- the development proposed intends to utilise elements of an existing structure that has remained vacant and unoccupied, since construction 15 years ago.
- a fully residential development would certainly result. However, the applicant’s study evaluating the demand for retail / commercial space at the application site (c/o McNally Handy & Partners Auctioneers) indicates that the intended commercial / retail use for the site is highly unlikely to be realised in the short to medium term.
- clarify that the application site forms only a small part of the overall Z3 Neighbourhood Centre, which extends to either side of the site, and provides for other shops and services locally.
- the applicant’s viability study of the potential for future commercial use at the application site (completed by McNally Handy & Partners Auctioneers – copy included in original application documentation) and an overview of commercial / retail land use, concludes :
 - existing retail and commercial uses satisfactorily offer a diverse range of services to the local community.

- vacancy rates of retail / commercial space locally is c. 22%. This capacity ensures any future requirement for retail space is easily met.
- located c.1km from the City Centre, an abundance of easily accessible consumer and comparison retailing exists, in addition to that provided locally. Therefore, it is unlikely potential retailers would invest in the application site when comparable outlets already exist around O'Connell Street.
- the c.22% vacancy rate locally, itself indicates a lack of demand for commercial space.
- the application site is unlikely to accommodate future sustainable business activity. Rather, a more suitable and sustainable use for the site is residential / apartment development.
- whilst the Z3 zoning objective certainly intends animation and activity at street level, the current long term unoccupancy and dereliction has resulted in property facades being boarded up, with resultant negative visual imagery of social decay and stigmatisation.
Rather, residential land use at street level will improve the local area, if only by removing an unsightly blank façade.
- having regard to residential property shortage in the City, residential land use of the site is the most sustainable, viable and appropriate option for the site.
- clarify that should economic and commercial viability improve locally, the residential units could easily revert back to retail / commercial use.

- **Precedent :**

- The proposed residential development at street level and below street level, is comparable with development at Bailey's Court, Summerhill, D1, granted planning permission under **Reg.Ref.3666/14**
- Other comparable planning permissions granted locally include - **Reg.Ref.3859/14 (Reg.Ref.29N.245083)** change to residential use by way of 6no. apartments across basement to second floor, at Vernon Avenue, Clontarf, and **Reg.Ref.29S.245164** change to residential use comprising 13no. apartments (three storey over basement), at Harolds Cross.
Precedent has been set in the above decisions by Dublin City Council and An Bord Pleanála, allowing for residential use at and below ground floor level.

8.1.4 Refusal Reason No. 2 :

- **Daylight and Sunlight Analysis :**

Having regard to the 'Daylight and Sunlight Analysis' report completed by Chris Shackleton Consultants, conclude that all rooms below ground level were compliant with the requirements for adequate daylight provision.

- **Privacy and Security :**

- Section 16.1.2 – 'Connections' of the City Development Plan 2011 advocates that buildings having 'Active Frontages', properly addressing public streets and spaces, thereby enabling security and privacy.

- Section 16.1.16 – 'Movement and Vehicles', further advocates that account be taken of the amenity and security of residents and the quality of the public space in the design of ground floor units.

An intermediate zone, such as a small garden or railed common area, are suggested in enabling security and privacy.

Emphasises that this has been achieved effectively in the design of the proposed development, with the proposed buffer strip between the ground floor units and the street, ensuring the privacy and security amenity of the duplex apartments.

8.1.5 Conclusion :

- the proposed development complies with the Z3 zoning objective, as residential use is 'permitted in principle' in the zone.
- the proposed five duplex apartments, located within the city centre, will provide much needed residential accommodation.
- no negative impacts on residential amenity will result.
- the visual quality of the local streetscape will be enhanced.
- a considerable number / proportion of commercial / retail units locally, have never been occupied and are currently vacant. Applicant concludes it is not likely that commercial tenants will be attracted to the application site. These units will remain vacant and unoccupied.
- precedent for comparable, similar development within the area has been set by Dublin City Council and An Bord Pleanála, allowing for residential use at and below ground floor level
- each duplex apartment exceeds the minimum size requirements and also provides adequate private and communal open space.
- the proposed below ground floor rooms, all comply with the requirements for provision of adequate daylight / sunlight.
- the proposed development with the privacy buffer strip surrounded with metal railings, will protect privacy and security amenity.

- should economic and commercial viability improve locally, the residential units could easily revert back to retail / commercial use.
- accordingly, request that An Bord Pleanála overturn the decision of Dublin City Council and thus grant planning permission in this instance.

8.2 Planning Authority Response

8.2.1 No technical planning response submission apparent.

8.2.2 Dublin City Council letter dated 08/06/2016 confirms that the observations of the Dublin Planning Officer have been sought, and that these will be forwarded to the Board.

8.3 Other Party Responses :

None

8.4 Observations :

None

8.5 Further Responses :

None

9.0 Assessment :

9.1 I have examined the file and available planning history, considered the prevailing local and national policies, physically inspected the site and assessed the proposal and all of the submissions. The issue of appropriate assessment also needs to be addressed. The following assessment covers the points made in the appeal submissions, and also encapsulates my *de novo* consideration of the application. The relevant planning issues relate to :

- Principle and location of the proposed development.
- Refusal Reason No.1 – Non Compliance with the Z3 Zoning Objective.
- Refusal Reason No.2 – Residential Amenity Impact.
- Visual Impact / Streetscape.
- Precedent.
- Appropriate Assessment.

9.2 Principle and Location of the proposed development :

- 9.2.1 I believe the planning ‘principle’ of residential land use at Nos’.80-83 Summerhill, has been reasonably established. Clearly zoned Z3 “Neighbourhood Centres – To provide for and improve neighbourhood facilities”, the applicable zoning matrix designates residential land use as being “permissible” within the zone Z3 (see para.6.1 above, together with the copy of the relevant section of the Zoning Objectives Map attached). I do not believe that any of the Planning Authority or Applicant’s interests contest this.
- 9.2.2 However, in terms of the applicable Z3 zoning objective, and the supplementary provisions throughout the Dublin City Development Plan 2011, a clear qualifying context within which residential development and land use may appropriately occur within the Z3 zone, is spelt out.
- 9.2.3 In itself, the primary objective is to provide for and improve neighbourhood facilities, not residential development. At any designated location such as at Summerhill, the primary objective is the provision of local facilities as focal point within the neighbourhood, and at Summerhill this is characterised by the traditional parade of commercial / retail units.
- 9.2.4 I note the emphasis stated at Section 15.10.3 “Neighbourhood Centres - Zone Z3”, that the neighbourhood centres provide an essential and sustainable amenity for residential areas, and that it is important that they be maintained and strengthened where necessary. Dublin City Council emphasise further in the Development Plan 2011 that neighbourhood centres “are the primary building block to achieving sustainable development” within Dublin City. I note that commitment to this fundamental building block to the efficacy of both the settlement and retail hierarchy throughout Dublin City, is sustained into the anticipated Draft Dublin City Development Plan 2016-2022, understood to be finalised soon.
- 9.2.5 Having regard to this contextual framework, the zoning objective Z3 enables a secondary element of residential land use, “particularly at higher densities, and above ground floor level. In itself, the proposed development clearly conflicts with this provision.
- 9.2.6 Further, the primary consideration is to, whilst enabling neighbourhood services and facilities, ensure that new development enhances the attractiveness and safety of Neighbourhood Centres for pedestrians, and that through maintenance of a range and diversity of uses, ensure their vitality throughout the day and evening. Notwithstanding their current vacancy, I

believe the proposed residential development would directly undermine the active retail use at street level along Summerhill, contrary to the provisions of the Z3 zoning objective, and of the proper planning and sustainable development of the Summerhill neighbourhood centre.

9.3 Refusal Reason No.1 – Non Compliance with the Z3 Zoning Objective :

9.3.1 Further to the discussion at paragraph 9.2 above, I note the emphasis made at Section 10.5.4 “Retail – The Wider City” of the Dublin City Development Plan 2011 regarding the important role of retail in the creation of vibrant centres and sustainable compact neighbourhoods, for residential communities such as at Summerhill. In this regard, commitment is clearly stated by Dublin City Council to enabling appropriate retail provision throughout the City in accordance with the settlement and retail hierarchy, as set out in the Development Plan 2011 core strategy and retail strategy. The Council is enabled with significant scope by way of Policy RD19, which seeks to not only maintain and strengthen the existing neighbourhood centres, but also to “revitalise, re-invent and prevent the obsolescence of older neighbourhood centres”.

9.3.2 The revitalisation, re-invention and prevention from obsolescence of neighbourhood centres such as at Summerhill, becomes a primary focus for the Planning Authority in my view, having regard to the unfortunate stagnation of this centre through the life of the current Development Plan 2011. However, whereas the applicant has invested heavily in evaluating the demand for retail / commercial space at the application site and in the surrounds, concluding that the intended Z3 commercial / retail uses for the site are “highly unlikely to be realised in the short to medium term”, I am not convinced that the Development Plan 2011 is wrong in its designation of Summerhill with the Z3 Zoning Objective and with the restrictive supplementary land use policy and objectives for neighbourhood centres.

9.3.4 Whereas the applicant correctly points out that the three retail / commercial units on site, at street and basement level, have been vacant for several years, and that vacancy rates of retail / commercial space locally is c.22%, I believe that the current unfortunate status quo is not a consequence of the Development Plan 2011 provisions being wrong. Neither do I believe the economic and commercial stagnation manifest locally at Summerhill, to be unique within the context of Dublin City. Rather, I believe such causation has been due to dramatic macro-economic factors way beyond the scope and control of the City Council and its Development Plan 2011.

However, whereas the initial restrictive impacts by way of the stagnation of development projects, were consistent in their spatial impact across the City, the distribution of development projects through the recent recovery years has been much more uneven.

9.3.5 Further, I reflect that the negative impacts on development projects due to the macro economic and fiscal crisis, were at its greatest, through the lifetime of the current Dublin City Development Plan 2011. I therefore share the conviction of the Planning Authority in their defence of the City Development Plan 2011, generally, and Policies RD19, RD24 and RD25, together with the Zoning Objective Z3 for Summerhill particularly.

9.3.6 I note that commitment to this fundamental building block to the efficacy of both the settlement and retail hierarchy throughout Dublin City, is sustained into the anticipated Draft Dublin City Development Plan 2016-2022, understood to be finalised soon.

9.3.7 Accordingly, I conclude that Refusal Reason No.1 be sustained.

9.4 Refusal Reason No.2 – Residential Amenity Impact :

9.4.1 Having regard to the Development Standards for new residential development set out at Section 17.9.1 of the City Development Plan 2011, I believe that the internal floor layouts and room / space areas of the proposed duplex apartments are generally adequate. Whilst this may be the case quantitatively, I do share the Planning Authority's concern regarding the provision of habitable rooms and balcony / patios below street level, effectively at basement level, and directly below the public side-walk.

9.4.2 Further, notwithstanding the applicant's arguments regarding compliance with the minimum requirements for sunlight and daylight, I share and sustain the Planning Authority's concern regarding the quality and provision of natural light to bedrooms, which in themselves are designed and positioned to be a full floor level below the adjacent public side-walk / street level.

9.4.3 Having regard to the architectural drawings and layout plans submitted, together with my own observations at the time of site visit, I believe it reasonable to deduce that in order to provide for bedrooms at lower ground / basement level in this instance, excavation into the existing public footpath at this level would be necessary. On the information available, I note this appears to be in the ownership of the applicant's (see attached photographs). Consequently, the Planning Authority correctly point out that the triangular balcony / patios below street level, would be enclosed on two sides by the

building, and on the third side by a wall created by the excavation out into and beneath the footpath. In my view this situation below street level is not satisfactory, and does not positively enable residential amenity for future residents of these units. Although bedrooms at this level, a substandard outlook directly onto the retaining wall will result, with compromise to the consistent accessible daylight to these balcony / patios, and with consequent compromise to meaningful usability. In this regard, I note that these lower level private open spaces are not clearly covered by the applicant's "Daylight / Sunlight Analysis".

9.4.4 Further, noting the juxtaposition of the adjacent public side walk above, and notwithstanding the mitigations argued by the applicant regarding privacy and security for residents, which in terms of their detail appear to target the ground floor / street level alone, I sustain concern that a real vulnerability and threat to the privacy and security exists at this lower level, which is not acceptable. Such negative impacts could reasonably in my view, be consequent of direct overlooking, littering or debris throwing from street / side-walk level above, and other similar anti-social behaviour. In my view, such threat to and potential for sustained compromise to the residential amenity of potential residents is not acceptable, and would be contrary to the proper planning and sustainable development of the area. Having regard to my observations at the time of site visit, this negative residential impact already exists as reality, for the residents of the basement / below ground level apartment units at Baileys Court, across Summerhill from the application site to the SE (see attached photographs).

9.4.5 Accordingly, I conclude that Refusal Reason No.2 be sustained.

9.5 Visual Impact / Streetscape – Summerhill (R803) :

9.5.1 The sense of place of the north-western side of Summerhill (the R803), opposite its T-junction with Buckingham Street Upper, is clearly influenced by the architectural style, design, and general finishing with respect to materials and colouring of the existing terrace of generally 2-storey buildings, all set in the local topographical and environmental context. Whilst a comparatively new build, the existing 4-storey over basement building on site is part of this Terrace, but is considerably wider and taller than its neighbouring adjacent buildings on either side. The existing vacant retail units front onto the public footpath at Summerhill, which is elevated above the public road.

9.5.2 The current long term unoccupancy and dereliction has unfortunately resulted in the retail units being boarded up, with resultant negative visual externality. I appreciate and understand the applicant's argument that the proposed

residential land use at street level will improve the local area, if only by removing an unsightly blank façade.

9.5.3 Whilst this may be so, I rather believe that this short term visual improvement would be at the fundamental breakup of what the City Development Plan 2011 is intending to consolidate as a linear parade of modest commercial / retail units, comprising the Neighbourhood Centre. In my view, the resultant row of five new residential duplex apartments, at street level in the middle of the parade of retail / commercial units, would both functionally and visually disrupt the streetscape and the potential for coherence of the Neighbourhood Centre, which clearly through the economic hardships of the last nearly 10 years, has had significant economic and commercial viability challenge (see attached photographs).

9.5.4 In my view, this impact would be disproportionate, and negatively impact the future of the designated Neighbourhood Centre along Summerhill, emphasised as a fundamental building block to the efficacy of both settlement and retail hierarchy through Dublin City, not only in the current Dublin City Development Plan 2011, but the anticipated finalisation of the Draft Dublin City Development Plan 2016-2022.

9.5.5 I recommend to the Board accordingly.

9.6 Precedent :

9.6.1 I note the applicant's argument that the proposed residential development at street level and below street level, is comparable with development at Bailey's Court, Summerhill, D1, granted planning permission under **Reg.Ref.3666/14**. Other argued comparable planning permissions granted locally include - **Reg.Ref.3859/14 (Reg.Ref.29N.245083)** at Vernon Avenue, Clontarf, and **Reg.Ref.29S.245164** at Harold's Cross. The applicant claims that precedent has been set in the above decisions by Dublin City Council and An Bord Pleanála, allowing for residential use at and below ground floor level

9.6.2 Whilst the outcome of these historical cases referenced by the applicant, was the grant of permission allowing for residential use at and below ground floor level, I am inclined to the view that in and of themselves, these decisions do not reasonably enable a precedent reference in favour of the applicants proposed development. Firstly, each of these cases referenced comprised significantly different and much larger mixed developments, at other locations within Dublin City, of which ground and lower ground floor residential development were a minor element and satisfactorily in compliance with

particularly the relevant residential amenity provisions of the Dublin City Development Plan 2011.

Secondly, and more importantly in my view, each of these historical cases were grounded within a fundamentally different land use planning policy context, compared to the current application. Whereas at present, principal consideration is required against Zoning Objective Z3 and the associated supplementary objectives of the Dublin City Development Plan 2011 relevant to Neighbourhood Centres, the zoning objective under **Reg.Ref.3666/14** was “Z5 - to consolidate and facilitate the development of the central area, and to identify, reinforce and strengthen and protect its civic design character and dignity”. Comparably, under **Reg.Ref.3859/14 (Reg.Ref.29N.245083)**, the zoning objective was “Z2 – to protect and improve the amenities of residential conservation areas” and under **Reg.Ref.29S.245164**, zoning objectives “Z1 - to protect, provide for and improve residential amenities” and “Z12 - to ensure the existing environmental amenities are protected in any future development”.

9.6.3 Certainly, having regard to the relevant Z3 zoning objective provisions currently applicable, none of these three historical cases referenced as precedent by the applicant, were encumbered with the policy restriction that Neighbourhood Centres, of which none of them were located within, “... may include an element of housing, particularly at higher densities, and above ground floor level”.

9.6.4 Accordingly, I believe the applicants arguments regarding precedent, in favour of the proposed development, cannot be sustained.

9.7 Appropriate Assessment :

9.7.1 Having regard to the nature and scale of the proposed development, to the location of the site within a fully serviced urban environment, and to the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

10.0 Recommendation :

10.1 I recommend that planning permission should be refused for the reasons and considerations as set out below.

11.0 Reasons and Considerations :

- 11.1** The proposed development is located in a neighbourhood centre with the Zoning Objective Z3 – “to provide for and improve neighbourhood facilities” in the current Dublin City Development Plan 2011-2017. In providing for residential duplex apartment units at and below street level, the proposed development would result in a consolidated development on the site, which would be entirely residential in nature, thereby failing to meet the primary Development Plan 2011 objective to provide for neighbourhood facilities, and to enable animation or activity at street level along Summerhill. The proposed development would also set an undesirable precedent for similar development within Neighbourhood Centres which could result in the erosion of designated Neighbourhood Centres. Such negative consequence is considered as being contrary to Dublin City Development Plan 2011-2017 provisions, and to the proper planning and sustainable development of the area.
- 11.2** The proposed development of residential duplex apartment units at and below street level, including the provision of bedrooms at basement level and areas of private open space below street level on this busy inner city street, would compromise the residential amenities, including privacy, security, outlook and reasonable access to direct sunlight of the units. Such negative consequence is considered as being contrary to Dublin City Development Plan 2011-2017 provisions, and to the proper planning and sustainable development of the area.

L W Howard
Planning Inspector

15th September 2016