



An
Bord
Pleanála

Inspector's Report

An Bord Pleanála Ref.

PL29S.246908

Proposed Development

Erect 40 no. residential units in 4 blocks including refurbished blocks that are protected structures together with car parking, landscaping and associated site works.

Planning Authority

Dublin City Council

Planning Authority Reg. Ref.

2732/16

Applicant(s)

Furlong Investments Limited

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Appellant(s)

Furlong Investments Limited

Observer(s)

Liam Mulkeen

Catherine Byrne TD

Catherine and Patrick Phelan

Ann Mulkeen

Andres Villar

Rfpm

Date of Site Inspection

11th October, 2016

Inspector

Stephen Kay

1.0 Site Location and Description

The appeal site is located in the Islandbridge area to the west of the city centre and on the southern side of the River Liffey and to the west of the South Circular Road and Sarah Bridge over the River Liffey. The surrounding area is predominantly residential in character and the site forms part of the original Islandbridge Mills complex. The site is bounded to the south by the Mill Race on this former industrial site, to the north by the River Liffey, and to the east and west by existing residential development in the Bellevue apartments.

The site contains two three storey existing stone industrial structures which are former mill buildings and these are located at the northern end of the site fronting onto the River Liffey and to the south in the vicinity of the Mill Race. Both of these existing structures on the site are Protected Structures. Access to the site is via an access road off the South Circular Road to the south of Sarah Bridge and access to the Bellevue apartments to the west of the site is also available via a second access further to the south on the South Circular Road. The existing access road from the northern entrance crosses the northern end of the appeal site. To the south of the road is an open yard area to the front of a 3-storey vacant stone warehouse structure, to the rear of this structure is a car repair garage with outbuildings and the southern site boundary is defined by mature trees along the Mill Race.

The stated area of the site is 0.28 ha.

2.0 Description of Proposed Development

The proposed development comprises the redevelopment of the site for residential use with a total of 40 no. residential units proposed in four blocks. Two of these four blocks (Blocks B and D) are proposed to be redevelopments of the two existing mill

buildings which are currently on site and which are protected structures and an additional two blocks are also proposed. The breakdown of the proposed development per block is as follows:

Block A: the replacement of the existing Bellevue Motors building at the southern end of the site with a five storey block that incorporates 6 no. one bed apartments, 19 no. two bedroom units together with rooftop terrace and basement car parking area.

Block B: The refurbishment of the derelict mill building located to the north of the former garage building so as to provide 1 no. one bedroom residential unit at ground floor level and 2 n. duplex units at upper floor levels in this three storey protected structure.

Block C: comprises the construction of a six storey block providing 2 no. three bedroom residential units and 4 no. two bedroom units and a roof garden area.

Block D is proposed to comprise the refurbishment of the existing mill building located at the northern end of the site adjacent to the River Liffey and to provide a total of 56 no. one bedroom units in the protected structure.

3.0 Planning History

There is a significant amount of planning history relating to the appeal site and adjacent sites as follows.

Appeal site:

Dublin City Council Ref. 07/5898; ABP Ref. PL29S.227538: Split decision issued by the Planning Authority (permission refused for the 9 storey Block B (which is Block C in the current proposal) and also refused for Block A (which is Block D in the current

proposal). Permission was granted on appeal by the Board for a mixed use development on the site comprising demolition of the existing garage structure and the construction of 39 no. apartments, medical related consultancy, construction of riverside linear park and all ancillary site works. The original proposal as submitted to Dublin City Council was for the retention of the existing mill structures and conversion into residential use (Block A, Block D in current layout) and use as a medical consultancy (Block C, Block B in current layout) and for the construction of two new residential blocks comprising a 9 storey Block B (Block C in the currently proposed layout) and a 5 storey over basement level Block D (Block A in the current proposal). A total of 25 car parking spaces were proposed (16 basement and 9 surface) and vehicular access via the two existing entrances from South Circular Road. This layout was the subject of revisions during the course of the appeal and by way of condition such that the following was permitted:

- Block A (D in current proposal) – linear park omitted and riverside vegetation to be retained. Extension to north elevation only at ground and first floor levels.
- Block B (C in current proposal) – floors reduced from 9 to 6. The east west width of block reduced 12.5 metres to 9.5 metres above first floor level such that separation to the west is 14.5 metres.
- Block D (A in the current proposal) – reduced in length by the omission of one apartment per floor and the block relocated such that the minimum separation to the adjoining building to the east is 4 metres.
- Overall the number of units permitted as per the Board decision was 32 no. units.

Dublin City Council Ref.3717/06; ABP Ref. PL29S.2322812: Permission granted by the planning authority but subsequently withdrawn at appeal stage to An Bord Pleanála for a residential development of 58 units, demolition of garage and construction of 1 x 6-storey and 1 x 9-storey block, the refurbishment and change of use to residential of the Protected Structures, 21 basement and 8 surface car parking spaces and vehicular access off existing access roads off the SCR. During the assessment of the proposal by the Planning Authority the scale of scheme was reduced the Notification of Decision issued was for a total of 29 units, Condition no. 2 required that:

- Block A (also current Block A) be reduced from 6 to 4 storeys and set back from the Mill Race.
- Block C (also current Block C) be reduced from 9 to 7 storeys.
- The Protected Structures be converted to one apartment unit per floor.

Adjoining sites:

Dublin City Council Ref.0992/96: Permission granted by the Planning authority for a mixed use residential/commercial development in six 2-5 storey blocks on lands to the west of the appeal site.

Dublin City Council Ref.2733/98: Permission granted by the Planning authority for an 88 no. unit residential development in four 3-5 storey blocks on lands located to the west of the appeal site (existing Bellevue development).

Dublin City Council Ref.1829/04: Permission granted by the planning authority for the refurbishment and change of use of 3 existing protected structures from offices/warehouse to residential and public house use, demolition of modern warehouse building and construction of two 5-6 storey apartment blocks, all to east of appeal site at Bellevue.

Clancy Barracks Site to the East of South Circular Road

Dublin City Council. Ref. 6113/04: Permission granted by the Planning Authority subject to 27 conditions for the demolition and refurbishment of buildings and the construction of a mixed use development comprising 959 apartments, 194 bed hotel, retail / commercial/community/cultural buildings, 5 workshops and a crèche in 1-7-9 storey blocks with one 10-15 storey building. ABP granted PP subject to a number of conditions which reduce the quantum of development on the site and the number of apartments to 732.

4.0 Planning Authority Assessment and Decision

4.1 Internal Reports

Planning Officer Report – The report of the Planning Officer notes the nature of the proposal, the submissions received and the planning history of the site. Concerns are expressed regarding the residential mix, justification for this mix, the design of blocks A and C in particular, Impact on existing residential amenity, particularly Block L of the Bellevue development, adequate proposals and provision of shared open space, inadequate car parking provision and lack of appropriate assessment screening. Refusal of permission consistent with the Notification of Decision which issued is recommended.

Conservation Officer – Report notes that there is inadequate detail provided regarding the condition of the buildings / protected structures on site and that as a result it is not possible to state what the most appropriate approach to redevelopment and interventions are. Such survey is required along with details of the proposed works to the protected structures.

Roads and Traffic Planning – Notes the access to the site and the existing demand for parking in the Bellevue apartment complex as well as objections on basis of parking demand in the area. Also notes development plan standard of 1.5 spaces per unit and previous agreement to 1 space per unit. Noted that a paid parking scheme appears to be in operation in the area both on site and to the south of the site and it is recommended that a survey of parking in these areas would be undertaken. Further information on parking levels / survey, meeting development plan standards, assignment of existing parking, management of the proposed car lift and visibility at the access road to the car park and presence of refuse store in this area.

Drainage Division – Further information required relating to flood risk.

City Archaeologist – No objection subject to conditions.

Environmental Health Officer – No objection subject to conditions.

4.2 Notification of Decision

A Notification of Decision to Refuse Permission, consistent with the recommendation contained in the report of the Planning Officer, was issued by the Planning Authority. The following is a summary of the reasons for refusal in this notification of decision:

1. That the proposed development by virtue of its scale and proximity to existing blocks would result in over development of the site and would seriously injure residential amenity and the setting of protected structures in the vicinity and would contravene the residential (Objective Z1) zoning objective for the site.

2. That the proposed development would by virtue of its design and choice of materials be visually obtrusive and overbearing when viewed from within the development and would be contrary to the provisions of Chapter 16 of the Plan.
3. That the proposed development does not provide a residential mix that meets the requirements of the Dublin City Development Plan and the *Design Standards for New Apartments 2015*.

I note the wording of the reasons for refusal cited in the Notification of Decision issued and the fact that the file cover notes that the proposal is a material contravention of the development plan. In view of the fact that the reasons for refusal do not specifically state material contravention and that reason for refusal no.1 states that the development would contravene the zoning objective by virtue of its impact on residential amenity rather than contravening a specific policy or objective I do not consider that the provisions of s.37(2) of the Planning and Development Act are applicable in this instance.

5.0 Appeal Submission

The following is a summary of the main issues raised in the appeal

- That the applicant was very surprised at the decision given the precedent of a previous grant of permission on the site. It is also considered that a number of the issues raised could have been the subject of a request for further information.
- Submitted that the precedent for 5 storey buildings has already been set as there are 5 storey structures either side of Block A.

- That potential for overshadowing is mitigated by having the tallest block (Block C) at the northern end.
- That the materials for Block A are consistent with the surroundings. Those for Block C are more contemporary however the previous assessment of the Board considered the design approach acceptable subject to the omission of the glazing and use of same treatment to the west facing elevation as that to the east.
- That the proposal is consistent with all of the policies as set out in the report of the Planning Officer (QH1, QH3, QH4, QH15, QH17, QH25). No reference is made by the planning officer to QH6 which seeks to promote the development of underutilised infill sites and to favourably consider higher density proposals. Submitted that this policy is applicable to the appeal site and that the density of 142 units per ha. is acceptable in this location.
- A schedule of accommodation is provided that shows compliance with the standards set out in the Sustainable Urban Housing Guidelines.
- Regarding mix, the mix has been designed to be acceptable to a housing association (Circle Housing Association are interested) or to the private market. Discussions with the Council regarding the provision of three units to meet Part V have been undertaken.
- That the housing need as per the social housing waiting list in this area is 48percent single people / one bedroom units. Submitted that the breakdown of units in the existing Bellevue development is such that there is an absence of small children and families as expected in a development located within

converted buildings and with water hazards. The basis of the unit mix sought by the housing association is therefore understandable.

- That a full assessment of condition and fabric to be retained as sought by the conservation officer is not possible given the current state of the buildings. Submitted that this can be done once on site and agreed with the council planners and conservation office. The provision of private amenity space to the units within the protected structures could be considered if appropriate.
- That private amenity space for the new blocks is well in excess of minimum required.
- Communal open space is provided in the roof terrace, the landscaped walk proposed to the river bank and the areas to the north, east and west of Block A. There are also gardens to the west as part of the existing residential development as well as the memorial gardens and the Phoenix Park.
- If considered appropriate the bin store / allotment area to the east of Block A can be omitted (allotments) and the bin store relocated to the basement of Block A.
- Regarding mammals, there is no evidence of bats on the site and this view is supported by Bat Conservation Ireland. A detailed survey can be undertaken before construction commences. The river bank within the site area is not suitable for otter holts and there is no sign of any swifts in the vicinity. No screening for appropriate assessment was undertaken as there is no Natura 2000 site adjoining the appeal site.

- Regarding car parking and the recommendation of the Roads and Traffic department that a survey of the existing situation be undertaken this was done by Rocktop Engineers in early July, 2016. Regarding existing basement car parking, this could not be accessed but is allocated parking for existing units. Regarding parking on the access roads to the site from the South Circular Road, this is unallocated parking and it is not clear who are using these spaces.
- That the level of parking per unit proposed (c. 0.5 per residential unit) was accepted by An Bord Pleanála in their previous decision to grant permission in 2008. A precedent for this reduced level of parking has therefore been set. It is also submitted that the plan policy seeks to encourage a modal shift from private modes to alternatives.
- Submitted that the car parking requirements of the proposed development can be met without impacting on the existing development or adjacent road network. Also noted that there are spaces to rent within the Bellevue development.
- That a flood risk assessment as recommended by the Drainage Division is attached with the appeal.

6.0 Observers to Appeal

Observations on the appeal have been received from four parties as follows:

- Christine and Patrick Phelan
- Liam Mulkeen

- Bellevue Management Company c/o Brock McClure Morton
- Ann Mulkeen
- Catherine Byrne TD
- Andres Villar

The main issues raised in these submissions can be summarised as follows:

- That the changes proposed to the development do not address the serious issues of overshadowing from Block C. Block C is of excessive scale.
- Block C will result in the overlooking of existing properties in Block I. Units 108 and 109 will not be able to use their balconies.
- That there is inadequate parking available to serve the development as is. The existing gravelled area within the site (adjacent to proposed Block D) will not be available and it is used by existing residents. The traffic study submitted is inconclusive.
- That the parking requirement is for 40 spaces and the development proposed is 16 short.
- That there would be significant construction phase disruption and no construction management plan has been submitted.

- That the traffic context of the site has changed since the previous grant of permission by the Board. Specifically, the Clancy Quay development has been undertaken with further phases proposed. There is also congestion from the shop opposite the site entrance at Sarah Bridge.
- That the reference to existing open space within the Bellevue development is noted however this belongs to the existing development. The management company of the existing development confirm that this open space will not be available to the new development. The development plan standard would require c. 350 sq. metres of open space however it is not clear where this is proposed on the site.
- The proposed roof gardens would have a potential adverse impact on residential amenity.
- That the loss of existing car parking spaces (the 10 spaces) would have a negative impact on overall parking demand.
- That the existing mill structures on the site should be redeveloped such that they and other renovated structures can be seen. The development is not appropriate in the curtilage of existing protected structures.
- That the area where Block C is proposed is an area that there is a right of way for the general public.
- That there is no entitlement to permission on the basis that it was granted previously. All proposals for development need to be assessed de novo. In any event the previous grant of permission was from 8 years ago and there have been significant changes in the policy and economic context since then.

- That commercial viability is not a criterion in the assessment of whether or not to grant or refuse permission.
- That the layout does not meet the residential quality standards as set out in the plan. Private open space does not meet development plan standards. The proposal is excessive and does not meet BS standards for light, particularly due to Block C.
- That the access to the existing development is problematic and cannot cater for additional development.
- That the layout and unit sizes in the development is anti-family.
- That a more appropriate scaled down development with Blocks B and D only would be more appropriate.
- That there is no obligation on the Planning Authority to request further information. The FI process is not there to supplement and facilitate incomplete applications.
- That the location and impact on amenity of Block C (B in the previous assessment of the Board under PL29S.227538) was raised in the planners report and is of significant concern in this application. The separation between Blocks c and existing Block I appears to be even less than in the last application in 2007.
- That the substantive issues raised in the refusal of permission by the Planning Authority have not been addressed in the first party appeal.

- No adequate justification for the unit mix or apartment sizes has been provided.
- That the proposed Block C and to a lesser extent Block A would result in a reduction in established levels of residential amenity. Block C should therefore be omitted from the development and should particularly not be permitted in the absence of a shadow assessment. In addition, it is considered that the design of Block C and the glass façade proposed is contrary to the established built form.

7.0 Response Submissions

7.1 Planning Authority Response to Grounds of Appeal

The submission of the Planning Authority states that the proposed development is considered to be contrary to the proper planning and sustainable development of the area. It is requested that the decision of the planning authority is upheld.

7.2 Other Referrals

The application was referred by the Board to An Chomhairle Ealaíon, Fáilte Ireland and the Development Applications Unit of the Department of Arts Heritage and the Gaeltacht for comment. No response to these referrals was received.

8.0 Planning Policy

8.1 Dublin City Development Plan

The current development plan is the Dublin City Development Plan 2011-2017 and it is under this plan that the Planning Authority assessed the application and refused permission. On 23rd September 2016, the Elected Members of Dublin City Council officially adopted the Dublin City Development Plan 2016–2022. The new Dublin City Development Plan comes into effect on Friday 21st October 2016. The new plan is not available on the Dublin City Council website as yet and it is not clear when details will be available.

The appeal site is located in an area that, under the provisions of the 2011-2017 plan, is predominately zoned Objective Z1 with part of the site to the north of the proposed Block D where it adjoins the River Liffey being located in an area that is zoned Objective Z9. From an inspection of the most recent draft 2016-2022 document available, these zonings are not indicated as being changed.

Residential standards are contained in the chapter 14 of the existing development plan and policies relating specifically to housing include QH1 which states that the council will have regard, inter alia to Sustainable Residential development in Urban areas'. QH4 seeks the achievement of sustainable urban densities. QH15 seeks to promote the provision of high quality apartments within sustainable neighbourhoods.

Section 16.2.8 relates to development in the vicinity of watercourses and states that where a proposed development adjoins a river or canal bank the area adjacent to the water should be retained as a linear park or walkway.

The area of the site and the existing Bellevue development is designated as a conservation area. Paragraph 17.10.8.1 of the current Dublin City Development Plan

relates to development within conservation areas and states, inter alia that development within such areas should complement and enhance the character and setting of such areas and also that new development should be designed so as not to constitute a visually obtrusive or dominant form of development. Developments should complement existing development in terms of design, materials, finishes and other details.

The site is located within a zone of archaeological interest.

8.2 Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities, December, 2015.

The guidelines set out standards for apartments including floor areas, private and communal open space and introduce the concept of a studio unit of c. 40 sq. metres. The guidelines note population projections and average household sizes and states that it is appropriate for development plans to set out maximum levels of one bed and studio units.

Section 2.7 of the Guidelines specifically states that mix ranges set out should not generally apply in the case of student housing or to certain social housing such as sheltered housing or to managed 'built to let' housing for mobile workers.

8.0 Assessment

In my opinion the following are the main issues relevant to the consideration of this appeal:

- Principle of Development and Planning Precedent
- Design, Layout and Impact on Amenity
- Access and Traffic
- Other Issues / Appropriate Assessment

8.1 Principle of Development and Planning Precedent

- 8.1.1 The bulk of the appeal site with the exception of the area immediately to the north of the existing warehouse at Block D between this structure and the River Liffey which is zoned for open space, is zoned Objective Z1 '*to protect, provide and improve residential amenities*' under the Dublin City Development Plan, 2011-2017. This land use zoning has remained unchanged in the 2016-2022 City Development Plan which comes into effect on 21st October, 2016. Under this land use zoning objective residential use is a permissible use. Public open space is also a permissible use on lands zoned Objective Z9. The proposed uses are therefore consistent with the land use zoning set out in the current and recently adopted development plans.
- 8.1.2 I note that a significant part of the case made by the first party appellant relates to the fact that permission for a development of similar form was granted under Ref. 5898/07; ABP Ref. PL29S.227538. This proposal was however the subject of a split decision by the Planning Authority who were concerned at the construction of Block C and its potential impact on residential amenity. Permission for the development comprising a similar building layout to the current proposal was subsequently granted by the Board on appeal (PL29S.227538) however I note that the inspectors report on that case makes reference to the fact that permission was previously granted for a block in the location of the current proposed Block C under Ref. 3717/06. This permission was however the subject of an appeal and subsequent withdrawal of the application.
- 8.1.3 The observers to the appeal note the fact that the application has to be determined de novo and I would agree with this interpretation. The previous applications and assessments undertaken by the Planning Authority for development of the site date from 2006 and 2007 and were therefore made under a previous development plan.

8.2 Design, Layout and Impact on Amenity

- 8.2.1 The basis for the refusal of permission issued by the Planning Authority relates to over development of the site and the negative impact that the proposed development, and particularly the proposed Block C would have on the residential amenity of existing residential units within the development. The Planning Authority also had concerns with regard to the impact of the proposed new development on the setting of the existing protected warehouse structures and how the design and materials proposed would impact on the setting of these existing blocks.
- 8.2.2 Firstly, with regard to density, the density proposed equates to 142 units per ha. (40 units on a site of 0.28 ha.). This density is not in itself excessive for a site such as the appeal site which is conveniently located relative to the city centre. In stating that however the issue in the case of the appeal site is the relationship of the proposed development to the existing surrounding residential development and the fact that there is existing residential development abutting parts of both the eastern and western boundaries of the site.
- 8.2.3 The Planning Authority raised concerns with regard to the proposed unit mix in the development and considered that the mix proposed would limit the future demographic of the scheme. It is noted that the applicant has indicated that the proposed end user of the development would likely be a housing association and from the information provided in the first party appeal it would appear likely that Circle Housing Association would be interested in the development were it granted planning permission. This is not however definitive. The applicant states that the unit mix has been developed to meet the requirements of the Housing Association and also to be suitable for private sector needs should that arise. The mix proposed comprises 13 unit or 32% one beds, 25 units or 62 % two beds and 2 units or 6% three beds. The unit mix proposed is generally consistent with the mix set out in

section 3.0 of the 2015 Apartment Design Standards with the exception that the percentage of three bed units is too low. I would also note the fact that the information presented by the first party in the appeal indicates that the unit mix is not very significantly different to that in the existing Bellevue development although the existing development has a lower percentage of three bedroom units than the 2015 standards. For this reason, therefore, notwithstanding the stated potential interest of a housing association, I do not consider that the proposed unit mix is appropriate in the context of the overall development and that a greater percentage of three bedroom units is required to meet the Department Guidelines.

8.2.4 The issue of overshadowing and the impact of the proposed development on the residential amenity of existing properties has been raised by a number of the observers and is a significant concern raised in the report of the Planning Officer. Block C in particular and to a lesser extent Block A. The design of these blocks is also considered to be problematic by the Planning Authority and particularly the design and finishes to Block C. It is noted that the proposed Block C is located within a designated conservation area and that it is located adjacent to Block I and the proposed Blocks B and D which are protected structures.

8.2.5 With regard to the proposed Block C I would share the concerns of the Planning Authority and the observers with regard to the potential impact on the amenity of Block I, particularly the southern part of the Block I where Block C would be located to the east and within less than 3 metres at the closest point. In addition, the impact of Block B on the availability of light to the proposed Block C would in my opinion be significant. Overall it is my opinion that the impact of Block C on the residential amenity of the existing residents of Block I would be significantly negative and that in the absence of shadow projection analysis the first party has not substantiated their claims regarding the lack of a significant impact. In terms of design, I would also have significant concerns regarding the form of the proposed Block C and consider

that the design approach is not appropriate given the location of the block within a conservation area and in such close proximity to protected structures. In particular, I note the provisions of Paragraph 17.10.8 of the Dublin City Development Plan regarding development in conservation areas and do not consider that the design of Block C can be seen to complement and enhance the setting of the conservation area as required in the Plan.

8.2.6 Block A to the south of the site is also proposed to be a new build block and is located in a similar position on the site to the development previously permitted under Ref. PL29S.227538. I do not consider that the layout of this block is as potentially problematic as Block C however I would note the fact that at the western end Block A is proposed to be located in very close proximity to the south facing elevation of Block I which has windows serving existing apartments in Block I. these windows would be located within less than 5 metres of the north facing elevation of the proposed Block I and would in my opinion have a significant negative impact on the availability of light to and the aspect from these existing units. For this reason, it is my opinion that in order to be acceptable the western end of Block A requires significant revisions to reduce the potential impact on residential amenity.

8.2.7 In terms of unit sizes, the first party appeal submission sets out a schedule of accommodation and the unit sizes proposed are consistent with the 2015 apartment guidelines. As noted in the appeal, the kitchen / living room of one unit is slightly smaller than standard however this is minor and other units appear to be consistent with minimum internal space requirements and room sizes.

8.2.8 Private open space is proposed to be provided in the form of balconies to a number of units and the provision of roof terraces to the proposed new Blocks A and C. These roof terraces are stated to have a cumulative area of 496 sq. metres. Given the restrictions of the adaptation of the existing Blocks B and D, I am of the opinion that

then overall development is generally consistent with minimum private amenity space requirements. The first party states that the option of providing balconies to the protected structures could be explored however I consider that the negative impacts in terms of conservation outweigh the potential gains in amenity.

8.2.9 Shared open space is proposed to be located to the north of the site in the area of the riverside walk / amenity area, and to the east, west and north of Block A. No detailed breakdown of these areas is provided and I note the concerns expressed by the Planning Officer on this issue however it would appear that the areas referred to above combine to c. 500 sq. metres or approximately 17 percent of the total site area. I would also note the convenient location of the site relative to the Phoenix park and to the War Memorial gardens located a short distance to the west of the site. I note the comments of the management company for the existing Bellevue development who are observers to the appeal and the fact that they state that there is no consent to the existing public open space areas within the Bellevue development being included in the calculation of open space requirements.

8.2.10 Related to the issue of open space, in the case of the previous permission granted by the Board under Ref. PL29S.227538, revisions proposed by the first party at appeal stage all included for the omission of the proposed riverside walk at the northern end of the site fronting the River Liffey and for the retention of the existing riverside foliage. The current proposals include a riverside amenity space in this location and in principle I do not see any basis for the omission of this element. It should be noted however that if this area was omitted from the development then the level of public open space provided would be below the 10 percent minimum specified in the plan.

8.3 Access and Traffic

8.3.1 The third party observers have raised significant concerns regarding the adequacy of the parking proposed to be provided on the site and these concerns are reflected in the report of the Roads and transportation department of the council which is on file. This report identifies concerns with regard to the level of car parking provision proposed in the development and states that there are existing issues of congestion and parking pressure within the development. Further information relating to a car parking survey is recommended.

8.3.2 As part of their appeal submission the first party has submitted a parking assessment that was undertaken in July, 2016. The results of this assessment indicate that there are a limited number of existing surface spaces available for occupants of the Bellevue development and it is also noted by the first party that there is evidence that there are existing basement car parking spaces within the Bellevue development available to rent. While there may be evidence of the private renting of spaces, this practice is not consistent with the grounds on which permission was granted for the existing development and I note the comments of the management company of Bellevue who are an observer to the appeal that such a practice is against the rules of the management company. I would also consider that the instances of such a practice is likely to be limited in the context of an existing basement car parking area of 204 spaces. While the conclusion of the parking assessment undertaken by the first party is that both restricted and unrestricted parking spaces are available to the south of the appeal site, the number of such spaces is very limited in the context of the overall scale of development both existing and proposed on the site and also having regard to the potential parking demand degenerated by the war memorial gardens and other amenities in the area.

8.3.3 In terms of parking numbers, the proposed development incorporates 24 no parking spaces to serve the 40 units proposed equating to 0.62 space per unit. The development plan standard is for a minimum of 1 space per unit (paragraph 17.40.13) and Table 17.1 requires a minimum of 1 space per unit for parking zones 1 and 2. The main basis for the first party proposing a lower level of on-site parking is the planning history on the site and the permission granted by an Bord Pleanála under Ref. PL29.227538 is 16 spaces to serve 31 permitted residential units, equating to 0.5 spaces per unit. On this issue I would however note that an additional 9 surface spaces were permitted under this appeal to serve the proposed medical centre and that these spaces would have a potential dual use and be available to residents in the evenings. When account is taken of these surface spaces the parking provision is c. 0.8 per unit.

8.3.4 Some concerns have also been expressed by the Planning Authority and residents regarding parking along the narrow access routes to the development and the potential impact on traffic safety and access for emergency vehicles. Given the results of the traffic survey and the comments of observers I note and agree with these concerns. In addition, while not specifically raised on the appeal file I note the poor visibility that is available for traffic exiting from both of the access roads serving the Bellevue development and the appeal site.

8.3.5 The report of the Roads and Traffic department note the fact that a car lift is proposed to be installed and state that this is of concern and that further details of its operation and maintenance is required. Particularly in the event that additional car parking spaces are required to be provided the suitability of a car lift for the development in my opinion requires further clarification with the applicant.

8.3.6 On balance, given the low level of parking proposed relative to development plan standards, the evidence of parking pressures in the area and the concerns of the Roads and Transportation department I consider that the level of parking proposed is not adequate to cater for the 40 residential units proposed. As set out above, I have significant concerns regarding the impact on residential amenity arising from the proposed Block C and in the event that this block was to be omitted and potentially some amendments made to Block A then the parking ratio would be improved.

8.4 Other Issues / Appropriate Assessment

8.4.1 No conservation method statement has been submitted with the application and the report of the conservation officer notes that an inadequate level of survey work and detail of the proposed interventions into the protected structures has been submitted. The first party has responded in the appeal to state that the structural condition of the existing protected structures is such that a full survey of the buildings is not feasible at present and that this could be undertaken prior to commencement of construction works in the event that permission was to be granted. I would agree with the assessment of the Dublin City Conservation Officer that a conservation method statement detailing the exact interventions into the building fabric and materials proposed is something which should be submitted with the application and consider that notwithstanding the existing poor structural condition of the structures proposed for reuse on the site that details of the proposed works should be better detailed in the application. I would also note the concerns of the Conservation Officer regarding the appropriateness of the proposed method of dry lining and also the comments regarding the proposed staircase in Block D fronting the River Liffey and its compliance with building control regulations. In the event of a future application it is considered that a more comprehensive level of information is required.

8.4.2 No appropriate assessment screening report has been submitted with the application. The location of the site is such that the closest natura 2000 sites are the South Dublin Bay SAC (site code 000210) and the South Dublin Bay and River Tolka SPA (site code 004024). These two sites are the only ones which have a potential hydrological linkage to the appeal site and the proposed development and I do not therefore consider that there are any other sites which be potentially impacted by the proposed development.

8.4.3 The conservation objectives for the South Dublin bay SAC site is to maintain or restore to favourable conservation status the following habitats:

Mudflats and sandflats not covered by seawater at low tide [1140]

Annual vegetation of drift lines [1210]

Salicornia and other annuals colonizing mud and sand [1310]

Embryonic shifting dunes [2110]

The potential impact on these habitats arising from the proposed development would relate to the possible release of sediment or contaminants into the river channel during the construction process and specifically during the works to the proposed riverside walk. Subject to good on site construction methods I do not consider that there is a risk of significant such material being released. In addition, the separation distance between the potential source at the site and the Natura 2000 site is such that in my opinion the proposed development is not likely to have significant effects on the European site having regard to the conservation objectives set out above.

8.4.4 The other Natura 2000 site with a potential hydrological connection is the South Dublin Bay and River Tolka SPA, a site located c.10km from the appeal site at the closest point and which is designated for the following species which it is an objective to maintain at or restore to favourable conservation status:

Light-bellied Brent Goose (*Branta bernicla hrota*) [A046]

Oystercatcher (*Haematopus ostralegus*) [A130]

Ringed Plover (*Charadrius hiaticula*) [A137]

Grey Plover (*Pluvialis squatarola*) [A141]

Knot (*Calidris canutus*) [A143]

Sanderling (*Calidris alba*) [A144]

Dunlin (*Calidris alpina*) [A149]

Bar-tailed Godwit (*Limosa lapponica*) [A157]

Redshank (*Tringa totanus*) [A162]

Black-headed Gull (*Chroicocephalus ridibundus*) [A179]

Roseate Tern (*Sterna dougallii*) [A192]

Common Tern (*Sterna hirundo*) [A193]

Arctic Tern (*Sterna paradisaea*) [A194]

Wetland and Waterbirds [A999]

8.4.5 For reasons similar to those set out above regarding the south Dublin Bay SAC, I do not consider that the proposed development is likely to have significant effects on this European site in light of its conservation objectives. The potential impact on the species listed above arising from the proposed development would be restricted to impacts arising from the possible release of sediment or contaminants into the river channel during the construction process and specifically during the works to the proposed riverside walk. Subject to good on site construction methods I do not consider that there is a risk of significant such material being released. In addition, the separation distance between the potential source at the site and the natura 2000 site is such that in my opinion the proposed development is not likely to have significant effects on the European site having regard to the conservation objectives set out above.

8.4.6 With regard to other ecology issues I note the fact that a submission has been made to the Planning Authority by the Department of Arts heritage and the Gaeltacht and that it is recommended that the site be surveyed for bats, otters and swifts. The first party appeal notes this submission and states that there has been no evidence of these species on the site. I do not however consider that this response is adequate and particularly given the first party statements regarding restricted access to the buildings for survey to date it is clear that a comprehensive assessment of the existing warehouse structures and their use as bat roosts has not been undertaken.

8.4.7 I note the fact that the Drainage Division of the local authority recommended the submission of further information on the issue of flood risk. In response the applicant has submitted a flood assessment. This study notes the fact that the Draft Dublin City Plan was the subject of a Strategic Flood Risk Assessment and that a justification test was undertaken for development sites including the current appeal site and that following this assessment that has been no proposed change to the residential zoning objective. I note the content of the submission from the first party and on the basis of the strategic assessment undertaken the area does not appear to be at significant flood risk. It remains however that no site specific flood risk assessment for this specific site and development type has been submitted with the application.

9.0 Recommendation

In view of the above, it is recommended that permission be Refused based on the reasons and considerations set out below.

Reasons and Considerations

1. Having regard to the design, scale and layout of the proposed development, in particular the scale of the new Blocks A and C proposed, their proximity to existing residential blocks and to the design of these blocks it is considered that the proposed development would have a significant negative impact on the residential amenity of existing properties in the Bellevue complex by reason of overshadowing and overbearing visual impact and would comprise a form of development that is not compatible with the designation of the site as a conservation area and have an adverse impact on the setting of protected structures both on site and to the immediate east and west of the site. The proposed development would therefore seriously injure the amenities and depreciate the value of adjoining residential properties, would be contrary to Policy FC26 of the Dublin City development Plan which seeks to protect and conserve the built heritage of the city and Paragraph 17.10.8 of the plan which requires that all new development would complement and enhance the character and setting of conservation areas and would be contrary to the Objective Z1 zoning objective of the site which seeks '*to protect, provide and improve residential amenities*'.
2. Having regard to the number of units proposed, to the existing congestion and parking issues along the access routes to the site and within the site it is considered that the proposed car parking provision is inadequate and would lead to significant parking congestion and disamenity for existing residents in the area. The proposed development would be contrary to the requirement for a minimum of one car parking space per apartment unit specified at Paragraph 17.40.13 of the development Plan and would be contrary to the proper planning and sustainable development of the area.

Stephen Kay
Planning Inspector

17th October, 2016