



An
Bord
Pleanála

Inspector's Report PL29N.247811

Development	Removal of all buildings on site and the construction of 33 no. apartments and all associated ancillary site development works at 84 North King Street, Dublin 7. The site adjoins 85 North King Street- a Protected Structure
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	3163/16
Applicant(s)	Co-Operative Housing Ireland
Type of Application	Permission
Planning Authority Decision	Grant
Appellant(s)	Colman and Nathalie Dowling
Observer(s)	Red Mill Management Company
Date of Site Inspection	04/04/2017
Inspector	Lorraine Dockery

1.0 **Site Location and Description**

- 1.1 The subject site, which has a stated area of 1402 square metres, is roughly rectangular in shape and has frontage onto both North King Street (to the south) and North Brunswick Street (to the north), Dublin 1. At North King Street, the site is bound by Delaney's public house to the east and by No. 85, a four storey over basement, Protected Structure to the west. At North Brunswick Street, the site is bound to the east by the Red Mill Apartments and to the west by Georges Court. This is an area currently under-going rejuvenation. A number of new developments are evident but much dereliction remains, in particular along this stretch of North King Street.
- 1.2 The frontage to North King Street, measures approximately 9 metres and is occupied by a two-storey commercial building that would appear to be no longer in use. The frontage to North Brunswick Street measures approximately 23 metres and contains a warehouse type building. The site internally is unused, overgrown with some dumping evident. This is a large site at a prime location within the city, which is considered to be underutilised. It is considered to be a brownfield, infill site, which detracts significantly from both streetscapes at this location.

2.0 **Proposed Development**

- 2.1. The proposed development, as described in the submitted public notices, comprises the removal of all existing buildings on site and construction of a commercial unit and 33 apartments in 2 buildings, together with all ancillary site works including photovoltaic solar panels on support grids on roofs.
- 2.2. Block A, facing onto North Brunswick Street, is a six-storey building including a recessed penthouse floor, comprising of 17 apartments

2.3. Block B, facing onto North King Street, is a five-storey building, including recessed penthouse floor, comprising of 16 apartments and 1 commercial unit.

2.4. The breakdown of units is as follows:

- 4 x three-bed units (100-101 sqm)
- 18 x two-bed units (77-83 sqm)
- 11 x one-bed units (48-67 sqm)

2.5 A letter was submitted with the application from Housing and Residential Services, Dublin City Council confirming that they support the proposed mix of apartments, as there is a need for these units in the area. All units will be assigned to social housing.

2.6 The following was submitted with the application:

- Architectural Heritage Assessment
- Archaeological Report
- Flood Risk Assessment
- Engineering Assessment Report

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission GRANTED subject to 17 conditions

The following conditions are of note:

Condition No. 2 restricts the use of the development to social housing units

Condition No. 3 states:

The development shall be revised as follows:

- a. All ground floor units facing the street shall have a minimum floor-to-ceiling height of 3.5m
- b. The fascia at the North King Street elevation shall be raised to align with the fascia of the adjoining premises at No. 83 North King Street
- c. The projecting balconies to the front of the block facing North King Street shall be omitted and either recessed behind the façade of the building or relocated to the rear of the building
- d. The width of the windows at first to fourth floor levels in the North King Street elevation be reduced to no more than 2.3m

Development shall not commence until revised plans, drawings and particulars showing the above amendments have been submitted to, and agreed in writing by the Planning Authority, and such works shall be fully implemented prior to the occupation of the buildings

Reason: In the interests of orderly development and visual amenity

Condition 9(a)

The developer shall comply with the following requirements of the Roads and Traffic Planning Division:

- a. The building line along North Brunswick Street shall be set back in line with the adjoining Red Mill apartment complex to the east and the Georges Court complex to the west in order to improve pedestrian facilities along the public footpath prior to commencement of development revised plans indicating this requirement shall be submitted to the Environment and Transportation Department for written agreement and approval.

Further Information was requested from the planning authority in relation to concerns regarding insignificant regard to the architecturally significant context and proposal being injurious to adjoining Protected and historic structures; ground floor uses at North Brunswick Street, relocation of building line along North Brunswick Street and private space provision to one-bed units on North King Street block. The applicants addressed the issues raised in their response to the Further Information request, with the only amendments being the re-alignment of Block A façade onto North Brunswick Street and consequent modifications of floor plans and schedules of accommodation; together with provision of balconies to apartments facing onto North King Street.

3.2. Planning Authority Reports

The report of the area planner reflects the decision of the planning authority

3.3. Other Technical Reports

Engineering Department: No objections, subject to conditions

Waste Management Division: Conditions attached

Roads and Traffic Planning Division: No objections, subject to conditions

City Archaeologist's Report: Proposed development is located within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Dublin City), which is subject to statutory protection under Section 12 of the National Monuments (Amendment) Act 1994. The site is also located within the Zone of Archaeological Interest in the Dublin City Development Plan 2011. Conditions attached

TII- no observation

4.0 **Planning History**

4.1. The following recent history is of note:

2317/06 (PL29N.218247)

Permission GRANTED on appeal for mixed use co-operative development with 44 apartments, retail/office and ancillary works on this site

2399/04

Permission GRANTED for mixed use co-operative development of 50 apartments, caretaker unit, management suite and associated site works

5.0 **Development Plan and Ministerial Guidelines**

5.1. The Dublin City Development Plan 2016-2022 is the operative County Development Plan for the area.

Zoning

'Z5'- which seeks to 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'.

'Residential' is a permissible use under this zoning objective.

Section 16.2.2.2 Infill Development

Section 16.10.20 Development on Archaeological Sites and in Zones of
Archaeological Interest

Section 2.3.9 Conservation, Culture and Heritage

Policy QH8:

To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

The site lies within a 'Zone of Archaeological Interest'.

Chapter 5 Quality Housing

No. 85 North King Street is designated as a Protected Structure within the operative City Development Plan (Ref. 4266)- House and shop.

There are a number of Protected Structures along this stretch of North King Street.

Sustainable Urban Housing: Design Standards for New Apartments, 2015

These Guidelines provide recommended minimum standards for floor areas for different types of apartments; storage spaces; sizes for apartment balconies / patios; and room dimensions for certain rooms.

Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities, 2008

These Guidelines include detailed advice on the role of urban design and planning for new sustainable neighbourhoods. At a district or neighbourhood scale within larger towns and cities, it is stated that provision should be made for community facilities; efficient use of resources including land, travel and energy; amenity and quality of life issues (open space, personal safety, traffic safety); and conservation of the built and natural environment.

In cities and larger towns, appropriate locations for increased densities are identified, including outer suburban/ greenfield sites and public transport corridors.

Quality Housing for Sustainable Communities – Best Practice Guidelines, 2007

These Guidelines are intended to assist with the implementation of initiatives to promote better homes, better neighbourhoods and better urban spaces. In terms of residential units, it is emphasized that the design approach for new dwellings should aim to create visually attractive structures which are suited to the needs of occupants within a reasonable level of cost. The Guidelines detail appropriate space requirements and room sizes for different dwelling types and are intended to satisfy requirements for normal living.

Architectural Heritage Protection Guidelines, Department of Arts, Heritage and the Gaeltacht (2011)

Provides guidelines on architectural heritage protection

6.0 The Appeal

6.1. Grounds of Appeal

6.2. The grounds of the third party appeal submissions can be summarised as follows:

- Occupants of No. 85 North King Street- single family dwelling
- Supports development of site by housing association but not to extent and density of current application
- Talks with applicant to safeguard their amenities have failed
- Concerns regarding loss of residential amenity
- Yard to rear of their property is the only external space available to appellants and is already of poor quality- proposal will further diminish the quality of this amenity
- Proposed walkway will allow easy overlooking into their yard and cookhouse windows- a serious diminution of residential amenity

- Concerns regarding loss of daylight to rear rooms (main living rooms) and ground floor return (cookhouse)
- Concerns regarding structural threat of proposed development on their property-during negotiations with the applicant, a structural and photographic study was carried out of the party wall between No.s 84 and 84- report concludes (which is not available for this appeal) that No. 85 is in poor structural condition with rot and beetle infestation in the basement and ground floor timbers, which may render them structurally compromised- basement has been temporarily supported with blockwork by the previous owner of No. 84 and is in a poor state- partial collapse of the roof support at the top of the house-no proposals to safeguard the protected structure were included in this application
- Proposal is in contravention of Dublin City Development policies and objectives in relation to heritage
- Summaries report of Dublin City Conservation Officer
- Historic Report, prepared in 2008, submitted as an appendix to this appeal-concludes that the house was probably built in early 1700s, as a lodging house associated with the fair in Smithfield Market- significance of No. 85 has been previously acknowledged by Dublin City Council and An Bord Pleanála
- Appendix D contains a letter from neighbour James Kelly, a Grade 1 Conservation Architect, reaffirming the serious issues at stake and raises issue with the extent of curtilage of the original plot of No. 85 North King Street. Included in this letter are 10 items of particular conservation value for No. 85, which are considered to warrant protection.
- Concerns regarding height, elevational treatment, fenestration patterns and roof design of proposal
- Impacts of density on existing residential amenity of No. 85

- Section 57 declaration was made to planning authority in December 2016- decision may now be available
- Appellants suggested that the block in the middle of the site be omitted from the scheme and that the depth of the block facing North King Street be made shallower to fall in line with the depth of the adjoining houses. This would mimic the original urban block form as suggested by the Conservation Officer's report
- Concerns regarding damage to Protected Structure during construction
- Issues regarding title and boundaries- 'flying freehold' situation exists
- Appendix A contains an 'Appeal Statement' from the appellants which outlines their living arrangements; examines issues of light, space and air; describes how development in vicinity has impacted upon them

6.3. **Planning Authority Response**

None

6.4. **Other Party Responses**

6.5. A response was received on behalf of the first party which may be summarised as follows:

- Gives details of discussions/engagements held with appellants and outlines site history
- Each map of the area from 1847 onwards shows evidence of substantial infill development as a general pattern in the area between North King Street and North Brunswick Street- assertion that there was a tradition of lengthy gardens between the two streets is not tenable
- Subject site is not a Protected Structure nor does it form any part of an Architectural Conservation Area

- Conscious attempt to ensure that the proposed buildings will be complementary to the adjoining buildings and which will enhance a streetscape that has been scarred by demolitions and deferred developments
- Design of building fronting onto North King Street has been governed by concerns that the cellar will not have any building loads imposed upon it- the access walkway into the central block and courtyard is to be located over the cellar with the upper floors of the building cantilevered from a central spine, thus avoiding the need for any construction loads onto the cellar or structural attachment to No. 85
- In terms of loss of residential amenity, notes that quality of private open space and daylight into certain windows, particularly at ground floor level is quite poor- design changes were undertaken including setting back of central building and walkway and introduction of landscaped upper courtyard in area facing appellants windows
- Nature of walkway as an open deck could be obscured glazed if there is concerns about overlooking- open deck design was done at request of appellants
- Shape of proposed buildings are well below the scope of the previously approved structures
- Photographs of cracking and water ingress into existing stairwell are pre-existing and are unrelated to proposed development
- Appointed contractor will be liable under the terms of the proposed contract to carry out any repairs which are necessary on foot of the proposed demolition and redevelopment of the site- full method statement will be prepared
- Refutes claims that the proposal is in contravention of Dublin City Council planning policies and objectives- for the purposes of clarity planning

documents stated that the site is adjacent to No. 85, a Protected Structure, this did not imply that they have any additional responsibility for it

- Proposed building will have exactly the same parapet height as the adjoining Protected Structure- high quality finishes which relate to streetscape of both streets
- North King Street elevation has a subtle relationship in form and scale with adjoining buildings, yet is clearly a new and contemporary building
- Proposal will lead to an improvement to the amenity of the neighbourhood
- In response to the appeal stamen of Colman and Nathalie Dowling, applicants state that sealing up of cellar and other building issues which were in place in 2008, were not carried out by the applicants
- In 2008, there was an extant permission on the subject site for 44 apartments -applicants are not in apposition to devote resources to the carrying out of repairs to adjoining buildings, which are not their legal responsibility
- Proposed new building could only add further protection and improve the amenity of No. 85
- Tenants of proposed units will live in them as long-term residents; therefore, it is vital that they comply in all respects with residential design standards
- Highlights points of note from submitted Conservation Report 2008- while useful considers it to be irrelevant to current appeal
- In relation to the letter of support from Mr. James Kelly, applicants state that the 10 items of particular conservation value in the Protected Structure will not be affected in any way by the proposed development
- Comments on the report of the Conservation Officer of the planning authority

- Principle of development on the site was previously established by a planning permission granted in 2006, some two years before the appellants purchased their home
- Reduced density in order to comply with new apartment design standards- plot ratio of 2.34 is below the development threshold of 2.5 for the area- site coverage of 52% is below the required 90% for the city centre
- Significant improvement in the re-settlement of the area
- High standard of space and amenity proposed for each apartment
- A letter from Co-Operative Housing Ireland was submitted with the response outlining background to the charity and the need for such housing in the area

6.6. A response was received from the third party appellants which expands on many issues raised in their appeal submission and refutes many of the issues raised in the first party response to the appeal.

6.7. **Observations**

An observation was received on behalf of The Red Mill Management Company Ltd which raises issues in relation to a more appropriate mix of uses on the site in accordance with the zoning objective; impacts on boundary in particular in relation to noise disturbance and impacts to structural integrity of boundary wall; loss of daylight; impacts from construction traffic and comments on response by planning authority to conservation uses associated with proposed development.

7.0 **Assessment**

7.1 I have examined all the documentation before me, including the reports of the Planning Authority, the appeal submission and have visited the site and its environs. In my mind, the main issues relating to this appeal are:

- Principle of proposed development
- Design and Layout of proposed development/Impacts on amenity
- Conservation Issues
- Appropriate Assessment

7.2 The planning history of the site is noted. Permission was previously granted on the site by An Bord Pleanála for residential development, similar in nature with slightly higher density to that proposed- permission for 44 apartments with one retail office use (PI29N.218247). I note however the significant time interval since the most recent grant of permission on the site, early 2007. It is acknowledged that the operative City Development Plan has changed in the interim and numerous Section 28 guidelines are now in place, that were not available when permission was originally permitted on this site. While cognisant of the site history, I am however assessing the current appeal de novo. The application was amended on foot of a Further Information request by the planning authority. It is this amended application which I am assessing.

7.3 **Principle of Proposed Development**

7.4 The subject site is zoned 'Objective Z5' in the operative City Development Plan which seeks to 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. 'Residential' is a permissible use under this zoning objective. As stated above, permission was previously granted on the site for a similar type development to that proposed, namely 44 apartments with retail office, permitted by An Bord Pleanála under Reg. Ref. PL29N.218247. Therefore, it may be argued that a precedent has been set for development of the nature proposed on the site and that it has been established that the proposed use is acceptable in principle. The site in its current state adds little to the streetscape of either North King Street or North Brunswick Street and an appropriate form of development would enhance the character and amenity of the area. It is an infill, brownfield site and the sustainable development of such sites is a key approach to achieving the vision of the operative Dublin City Development Plan. Policy QH8 is noted which seeks 'to promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area'.

7.5 Having regard to all of the above, I consider the development as proposed to be acceptable in principle and generally in compliance with the zoning objective and policies for the area.

7.6 **Design and Layout of Proposed Development/Impacts on amenity**

7.7 The proposal provides for 33 apartments, with one ancillary unit at ground floor level fronting onto North King Street. In terms of layout and design, the proposal is generally considered acceptable, however I do have some issues of concern. The proposal provides for three main elements- a block fronting onto North King Street, a central block and a block fronting onto North Brunswick Street. Access to the central block is provided via a pedestrian walkway from North King Street. The historic maps show pedestrian access into the site from North King Street, presumably in the

form of an arch. The location of the pedestrian access is being altered in this proposed development so as to avoid any load bearing on a basement underneath. The principle of this is considered acceptable. This issue relating to the basement will be dealt with further below. The heights of the blocks fronting onto North King Street and North Brunswick Street are generally considered acceptable and integrate well with existing development on those streets.

7.8 Dealing first with the proposed block fronting onto North King Street, my main concern relates to the proposed ground floor use and lack of an active streetscape. Frontage at ground floor level was raised as a concern by the planning authority at Further Information stage. The response of the applicants was that they are a publicly-funded, not-for-profit organisation and are precluded from engaging in commercial development. A requirement for the provision of commercial units within this development risked jeopardising its charitable status but the applicants agreed to fund one unit facing onto North King Street, accepting that it is unviable as a residential unit. They stated that they will seek to establish a suitable and compatible use for this unit either as a management area for the complex or as a co-operative small enterprise unit. In relation to the frontage onto North Brunswick Street, they stated that they cannot provide commercial units due not only to funding restrictions but also due to the poor likelihood of obtaining viable and appropriate uses, given the fact that there are very few commercial units already trading onto this street. The planning authority accepted this response from the applicants and I would concur. While a commercial use would be preferable at ground floor level of these perimeter blocks in order to provide a more active streetscape, I do accept that neither North King Street or North Brunswick Street would be regarded as principal shopping streets within the city. I accept the circumstances of the applicants as a not-for-profit organisation involved in the provision of social housing, not mandated to provide commercial units and also the fact that much of the development in the vicinity is not commercial in nature at ground floor level. Having regard to all of the above, the proposed use is considered acceptable.

7.9 Condition No. 3 of the decision which issued from the planning authority raised a number of issues. It stipulated that all ground floor units facing the street shall have

a minimum floor-to-ceiling height of 3.5m. Considering the stated use of the subject unit, as cited above and noting the response of the applicants in which they state that increasing the ceiling height to 3.7 metres would have implications for the units above and for the overall height of the subject block, I consider that the existing 3.0 metre floor to ceiling height is acceptable in this instance. Revised drawings have been submitted in response to the appeal from the applicants showing the fascia at the North King Street elevation raised to align with the fascia of the adjoining premises at No. 83 North King Street. This is considered acceptable. The final element of Condition No. 3 stipulates that the width of the windows at first to fourth floor levels in the North King Street elevation be reduced to no more than 2.3m. I do not consider this necessary in this instance. I consider the North King Street elevation as proposed, to be acceptable and integrates well as an infill block on the street. Issues with the North Brunswick Street block are dealt with below.

7.10 Following through is the proposed elevated walkway linking the North King Street block with the central block. This open walkway, with glass balustrades is essentially being provided so as to negate the need to provide a stairwell within the perimeter block fronting onto North King Street. I do not have issue with this in principle. However, the appellants have raised concerns in relation to overlooking from this walkway into their private open space and the cookhouse attached to the rear of their property. I consider these concerns to be valid and recommend that the proposed glass balustrades be a minimum of 1.8 metres in height and comprised of permanently obscured glazing. This measure would maintain the openness of the walkway while preventing undue overlooking of the adjoining property.

7.11 Following through to the central block, I have noted the concerns of the third party appellants in this regard. I note their request that this block be omitted in its entirety from the proposal. Having examined the documentation before me, and conducted a visit of the site and its environs, I do acknowledge the proximity of the proposed central block to the adjoining No. 85 North King Street and this raises concerns. I note the extent of blank elevation that they would be looking onto and how their outlook will be affected. Having regard to the northerly orientation of their property, I consider that the height of the building as proposed would severely impact on their access to daylight. I note that no daylight/sunlight assessments were submitted with the application. It is my opinion that this block, as proposed, would have an

overbearing impact on their property and there would result a diminution on the amenity that they currently enjoy. I note the applicants attempts to negate its impact by stepping down the height to four storeys on part of the block. However, the fact remains that there are four storeys of primarily a blank elevation 1.1 metres from the appellants rear boundary wall. While I am cognisant of the city centre location of the site and the expectation of higher densities at such locations, I consider this element to be excessive. We cannot expect to entice people back to living in city and town centres if their level of residential amenity is diminished to such an extent. I therefore consider that the third floor should be omitted from the proposal, namely Units 21 and 22 and also Unit No. 14 on the second floor. The block would therefore be reduced from five storey to four storey, with the more westerly element reduced to two storeys. The number of units will be reduced by three, from 33 to 30 but the impacts on the residential amenity for the occupiers of No. 85 will be greatly reduced. This matter should be dealt with by means of condition, if the Bord is disposed towards a grant of permission.

7.12 The proposed block fronting onto North Brunswick Street is generally considered acceptable. Having regard to the orientation of the site and to the extent and location of the proposed development, I consider that there would not be undue impacts on daylight/sunlight on the residents of the Red Mill apartment complex, as a result of the proposed development.

7.13 In terms of residential standards, the breakdown of units provides for 11 one-bedroom units (33%), 18 two-bed units (55%) and 4 three-bed units (12%). This figure provides for a proportion of one-bed apartments over the permitted maximum as outlined in the operative City Development Plan. The current Plan provides for a maximum of 20% one-bed units in any proposed development. However, some flexibility can be applied in the case of social housing and in this instance, a letter from Housing and Residential Services, Dublin City Council was submitted with the application confirming that with regard the proposed mix of apartments, they support the proposal as there is a need for these units in the area and all units will be assigned to social housing. This information is considered acceptable and the proposed mix is considered appropriate and justified in this instance. If one-bed units are required in the general area, then it makes sense to provide such units as

required. The size of the proposed units are considered acceptable and in compliance with Section 28 guidelines and the operative City Development Plan. Many units are dual aspect and if permitted, would provide a good quality of residential amenity to future occupiers. In terms of open space provision, I note that private open space is being provided in the form of terraces and balconies. The quality/quantum of open space provision to the units fronting onto North King Street was raised in the Further Information request from the planning authority and in response, the applicants have provided projecting balconies over the public footpath of North King Street. Given the location of the site, I consider such projecting balconies inappropriate at this location and it is noted that Condition 3(c) which issued in the decision from the planning authority omitted these projecting balconies from the front of the block and stipulated that they be either receded behind the façade of the building or relocated to its rear. I consider the recessing of such balconies to be a better design solution and consider that the main area of private open space for a unit should not be accessed from a bedroom, albeit a one-bed unit. The front elevation of the proposed structure has a southerly aspect so a recessed balcony to the front would provide a higher level of amenity. If the Bord is disposed towards a grant of permission, I recommend that this issue be dealt with by condition.

- 7.14 Having examined the proposal before me, I am satisfied that the scheme will provide for a good quality development, providing a relatively high level of amenity for any future occupiers. I consider it to be an appropriate use of a serviced, brownfield site, within Dublin city centre; zoned for appropriate mixed use development. The nature and scale of the proposal is such that it will generally integrate well with existing development in the vicinity. The site in its current state adds nothing to the character or amenities of the area. It is hoped that the proposed development would be an attractive addition to the area, providing a high level of amenity. Considering the location of the site close to the city centre, the proposed density of development is considered acceptable, at approximately 235 units/hectare. I note site constraints including frontage onto two streets, location beside Protected Structure and its part backland location, surrounded on all sides by established properties.

7.15 I note the no car parking is proposed in this current development. Bicycle parking is provided for in the central courtyard. I note the report of the Transportation Division of the planning authority in this regard, which has no objections to the proposal, subject to conditions. I have no information before me to believe that the proposed development if permitted would lead to the obstruction of road users or the creation of a traffic hazard. Having regard to the above, together with the small-scale nature of the development proposed, and its city centre location, with its associated public transport links I consider this to be acceptable. I note condition 9(a) of the decision to grant permission which issued from the planning authority which states that the building line along North Brunswick Street shall be set back in line with the adjoining Red Mill apartment complex to the east and the Georges Court complex to the west in order to improve pedestrian facilities along the public footpath. This revised building line was shown on the drawings submitted in first party response to the appeal and this is considered acceptable.

7.16 Having regard to all of the above, I am satisfied that the proposed development would generally accord with the provisions of the operative City Development Plan and would be consistent with the proper planning and sustainable development of the area.

7.17 **Conservation Issues**

7.18 I note that impacts on the character and setting of the Protected Structure form the major part of the first party appeal submission and I have read all documentation submitted in this regard. I have also read and noted the report of the Conservation Officer of the planning authority. No. 85 North King Street is a Protected Structure. There are no special designations pertaining to the subject site, No. 84 nor is the general area designated as an architectural conservation area. The historical significance of the general area has been detailed in the submissions received and any development in the general area should be cognisant of this. Today, this section of the streetscape is dilapidated and run-down, with many sites suffering from decay and dereliction. Buildings of varying styles, eras and condition are evident. The subject terrace is fragmented, some original fabric survives but examples of new build are evident in the general vicinity, some of questionable quality. No. 83 and 85, either side of the subject site are examples of where the historic fabric does survive

and any development on this site needs to take account of the character and setting of this. However, while the character and setting of these structures should be respected, I am of the opinion that this is an infill site in the city centre, suitable for an appropriate type of development. I consider that any new development should not be pastiche in nature- proposed structures should reflect the era in which they are constructed. The existing structure on site is itself an infill development, which adds little to the streetscape at this location. In fact, in my opinion it detracts significantly from both the adjoining Protected Structure and the character and amenity of the street. I cannot see the benefit of retaining this structure in any new development. I consider that the height, scale and materials proposed for the North King Street elevation to be a more appropriate form of the development. The plot width is being maintained and the height integrates with other structures along the street. The depth of the proposed block has been raised as an issue, but I consider it appropriate having regard to the fact that there are blocks of varying depths all along the street. I note the proposed pedestrian access, which reflects the former carriage arch and I consider this to be acceptable.

7.19 Much has been raised and discussed in the appeal submission in relation to the existing shared basement structure and the legalities and history associated with this. I did not see the basement but from the information including photographs submitted, it would appear that it requires maintenance and repair. However, in this instance I am of the opinion that the issues raised are not particularly relevant to this current appeal. There appears to be a long relationship between the owners of No. 85 and different owners of No. 84 in this regard, which I have not been party to and I consider it inappropriate for me to comment on the matter further. I consider that some of the issues raised may in fact be legal issues outside the remit of the appeal. Concerns raised in relation to damage to their property during the construction phase of development are reasonable and conditions should be attached to any grant of permission regarding the adequate protection of their property during construction works. Having read all of the documentation submitted, it would appear to me that while I acknowledge the situation of the owners of No. 85, many of these issues raised would appear to relate to maintenance and upgrade of that property, and pre-date this proposed development. The maintenance and upgrade of No. 85 is not relevant to this current appeal and many of the issues raised may in fact be legal

issues. In terms of the planning matters, I have discussed above the issues in relation to the central block and its impact on the Protected Structure and have made recommendations accordingly.

7.20 The existing structures on this subject site detract significantly from the character and setting of the Protected Structure and I consider that the proposal as submitted, and amended by condition will significantly improve upon this. In addition, the raising of the height of the proposed structure will give some added protection to the exposed gable elevation of the No. 85. The existing Protected Structures on the street do not exist in isolation, they are surrounded by development of varying eras at this bustling location, close to the very heart of the city. While any new development needs to respect the historic development, the city must be allowed to grow in order to continue to thrive. I therefore conclude that the impacts on the setting and character of the Protected Structures present on the street are not so great as to warrant a refusal of permission.

7.21 **Other Issues**

7.22 Issues raised in relation to party boundaries are legal matters outside the remit of this planning appeal.

7.23 It is anticipated that there will be additional noise in the vicinity of the site during the demolition and construction stages of development. This noise will however be short-lived in nature. I recommend that a condition be attached to any grant of permission restricting construction hours and requiring the submission of a Construction Management Plan.

7.24 **Appropriate Assessment**

7.20 The subject site is located in an established city area on a brownfield site and is not located adjacent to nor in close proximity to any European sites, as defined in Section 177R of the Habitats Directive. Having regard to the nature and scale of the proposed development and/or the nature of the receiving environment and/or proximity to the nearest 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.

8.0 Recommendation

8.1. I recommend that planning permission be granted, for the reasons set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Dublin City Development Plan 2016-2022, to the planning history of the site, to the scale and nature of the proposed development and to the recognised need for housing at this location, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the development plan, would not adversely affect the amenities of the area, would be appropriate within the area, would provide an acceptable standard of amenity for future residents and would promote sustainable modes of transportation. 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, except as may be amended by Further Information received by the planning authority on the 7th day of November 2016 and the first party response received by An Bord Pleanála on 03rd day of February 2017,

and 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. The proposed development shall be amended as follows:
 - (a) The proposed third floor of the central block shall be omitted from the proposal, accommodating Units 21 and 22, together with Unit 14 on the second floor of this central block shall also be omitted
 - (b) The projecting balconies to the front of the block facing onto North King Street shall be omitted and recessed behind the façade of the building
 - (c) The proposed open elevated walkway shall be comprised of glazed balustrades, permanently obscured of minimum height 1.8 metres
 - (d) The building line along North Brunswick Street shall be set back in line with the adjoining Red Mill apartment complex to the east and the Georges Court complex to the west in order to improve pedestrian facilities along the public footpath

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. The total number of residential units hereby permitted is 30 no.

Reason: In the interests of clarity

4. The residential units hereby permitted shall be used as social housing managed by the applicant or an approved housing body, and shall not be let or sold on the open market without a prior grant of planning permission

Reason: In the interests of clarity

5. Prior to the commencement of development, the developer shall submit details and samples of all proposed external finishes for the written agreement of the planning authority. Any proposed render finish shall be self-finish in a suitable colour and shall not require painting

Reason: In the interest of visual amenity.

6. (a) Proposed signage to North King Street elevation shall be comprised of individual lettering mounted directly onto the façade of the building in a material such as stainless steel

(b) Apart from the signage agreed to under (a), notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

7. Access arrangements shall comply with the detailed standards of the planning authority for such works.

Reason: In the interests of amenity and of traffic safety.

8. All residential units shall be used as single residential units

Reason: In the interests of clarity

9. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

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

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

11. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

12. Prior to commencement of development, the developer shall submit a construction and demolition waste management plan to the planning authority for agreement 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. This

shall include details of wastes 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.

Reason: In the interest of orderly development and sustainable waste management.

13. The naming/numbering of the proposed development shall be agreed in writing with the planning authority prior to its occupation.

Reason: In the interest of orderly street numbering.

14. Security roller shutters, if installed in the commercial unit, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

15. Prior to commencement of development the developer shall submit, and obtain the written agreement of the planning authority to, a plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment

16. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.

Reason: In the interest of amenity and public safety.

17. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

18. The applicant shall comply with all requirements of the planning authority in relation to landscaping and planting. The subject landscaping scheme shall be carried within the first planting season following substantial completion of each phase of the 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 5 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 interests of residential and visual amenity.

19. The applicants shall comply with all requirements of the planning authority of relation to archaeology, conservation and heritage.

Reason: In the interests of preserving or preserving by record archaeological material to be damaged or destroyed in the course of the development

20. Notwithstanding the provisions of Class 31 of Part 1 of Schedule 2 of the Planning and Development Regulations 2001, as amended no telecommunication apparatus that

would otherwise constitute exempted development shall be installed on the application site without the written consent of the planning authority

Reason: In the interests of orderly development

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

Lorraine Dockery
Planning Inspector

06th April 2017

