



An
Bord
Pleanála

Inspector's Report PL29S.248501

Development Four storey mixed used building, with 1no. retail unit at ground floor and 14no. residential apartments, 18no. car parking spaces and etc.

Location No.119 Drimnagh Road, Dublin 12.

Planning Authority Dublin City Council

Planning Authority Reg. Ref. 2326/17

Applicant(s) On Track Developments Ltd

Type of Application Permission

Planning Authority Decision GRANT with 16no. conditions.

Type of Appeal Third Party

Appellant(s) St Mary's Park Residents Association
c/o James Delaney

Observer(s) None

Date of Site Inspection 10/08/17

Inspector John Desmond

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1.0 Site Location and Description

- 1.1. The application site is located southwest of Dublin City Council, c.170m west-southwest of Our Lady's Children's Hospital, Crumlin.
- 1.2. The site is situated on the south side of Drimnagh Road, the R110, a heavily trafficked route leading to the Long Mile Road and the Naas Road, and then to the M50 and other national routes. A QBC runs along Drimnagh Road, in both directions. There is formal on-street car parking along the southern side of the road including adjacent to the site.
- 1.3. The application site is a cleared brownfield site of 1,386-sq.m stated gross area. It was formerly the site of a Methodist Church, now removed. The site is flat and generally level, with slight rise in elevation to the rear and is without structures or any mature vegetation. The site is rectangular in shape with road frontage (to the north) of c.27m to Drimnagh Road and extending c.53m back therefrom. A 5m-wide service access road to neighbouring residences runs along the site's western boundary, with a junction to another lane running perpendicular thereto, connecting to Balfe Road to the west. There is extensive on-street parking on the west side of the lane (for c.100m) which appears to be associated with Drimnagh Motors. There is significant on-street parking on the connecting lane to Balfe Road also.
- 1.4. To the south the site backs onto the rear garden boundary of a suburban house dating from around the 1960's. To the east the site abuts a recently developed commercial area containing a café (Costa Coffee), a pharmacy (Boots) and a supermarket (Centra).
- 1.5. The area is characterised by extensive local authority low-density suburban housing dating from around the 1960's, but with significant commercial and institutional (medical) uses, focused on this stretch of road. Immediately west of the service lane to the west of the site, there is a second-hand car dealership (Drimnagh Motors). The commercial centre of the area (the original village centre) is located c.100m to the west, with a mix of commercial uses, beyond which (c.400m west of the site) there are extensive institutional (education) lands. The more extensive industrial, warehouse commercial type uses associated with the Long Mile Road become apparent thereafter (c.700m west of the site).

- 1.6. Apart from the Children's Hospital and some other medical facilities, the wider lands to the north, east and south are generally characterised by low-density suburban residential.

2.0 Proposed Development

- 2.1. It is proposed to erect a 4-storey building of 1890-sq.m stated area to accommodate:

- 1 no. retail unit (237-sq.m stated area), with associated storage and ancillary areas;
- 14no. residential apartment units: 4no. 2-bedroom and 1no. 1-bedroom units each at first and second floor; and 4no. 2-bedroom units at third floor level;
- Communal open space at ground and third floor level and 18no. car parking spaces at ground floor level;

- 2.2. The following supporting documents were submitted with the application:

- Photomontage Booklet
- Landscape Report and Outline Landscape Specification (plus plans) by KFLA
- Planning Application Services and Traffic Report by Boylan Engineering
- Appropriate Assessment Screening Report by Openfield Ecological Services
- Thornton O'Connor Town Planning report.

3.0 Planning Authority Decision

3.1. Decision

GRANT permission subject to 16no. conditions. Condition no.4 amended the external finishes and limited the extent of north balconies; conditions nos.5, 6 and 7 specified and restricted signage; condition no.11 required revised landscaping of the public open space forward of the building line for agreement.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the Planning Officer noted that the proposed development involves an improvement in separation distances to houses on St Mary's Park and that the angling of windows on the east-facing elevation improves the relationship between the subject site and the district centre site to the east and has largely addressed the issues for refusal and recommended that permission be granted subject to 13no. conditions. Page 6 of the report advises that the proposed balcony on the southeast and southwest corners shall be fully louvered and screened enclosed as a winter garden area in order to minimise overlooking of neighbouring property (note - this was not included as a condition attaching to the recommendation to grant permission). The recommended conditions also did not include conditions concerning Part V (no.14), on house numbering (no.15) or requiring lodgement of a completion bond which attached to the decision.

3.2.2. Other Technical Reports

Drainage Division (24/03/17) – No objection subject to standard conditions.

Roads and Traffic Division (13/04/17) – No objection subject to standard type conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

Two letters of observation were received from Mary's Park Residents' Association c/o James McInerney Planning Consultant (23/03/17 and 29/03/17). The main points raised in the observation are repeated in the grounds of appeal.

4.0 Planning History

On site –

PL29S.246433 / Reg.ref.212/16: Permission **REFUSED** by the Board (03/08/16), overturning the decision of the Planning Authority, for a four-storey mixed-use building (2,092-sq.m) to include one retail unit (345-sq.m) at ground floor level and 14no. residential units at upper levels (two one-bedroom apartments and 12no. two-bedroom apartments) and all associated development. The grounds of refusal related to (1) the impact on residential amenities from direct and perceived overlooking and (2) to the compromising of future development potential of the adjacent District Centre site by constraints imposed thereon by the development in order to protect the amenities of the proposed development.

PL29S.236485 / Reg.ref.3436/09: Permission **GRANTED** by the Board (13/10/10) for the development of a community primary care health centre including 6no. G.P. medical suites; 3no. dental suites; associated medical service rooms; offices; 2no. retail units and underground car parking (33no. spaces and 15no. bicycle) within a four storey over basement building at the site of the former Methodist Church. The development will also incorporate access arrangements which feature a ramped access/egress from the basement car park onto the lane to the west of the site opening onto Drimnagh Road; the widening of the lane and the provision of a new 2m wide footpath adjoining it within the site and a paved landscaped area with provision for 2no. bicycle stands (13no. bicycle spaces) to the front of the building on Drimnagh Road.

Condition no.2 amended the third floor roof garden to prevent overlooking of neighbouring property.

Condition no.15 included a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of works arising from the conclusions and any recommendations of the road safety audit required in condition no.4.

Reg.ref.4159/06: Permission **REFUSED** by the Board (14/12/07) overturning the decision of Dublin City Council to grant permission for a six storey building over basement car park community primary care centre, including six GP medical

practices and associated paramedical practice rooms, operational office and retail uses at the site of the former Methodist Church. 119 Drimnagh Road, Dublin 12. The two reasons for refusal related to i) impacts on neighbouring residential amenity from overbearing, overlooking, overshadowing and out of character development by reason of scale, height and layout; and ii) traffic impacts from overdevelopment and inadequate car parking.

In the vicinity –

Reg.ref.2104/15: Permission **GRANTED** by Dublin City Council (29/04/15) Minor amendments to previously granted planning permission Ref.no.3598/13 and previous decision to grant planning permission ref.no.3707/14, for the development located on a site of 0.2783 hectares at the site of the Former Snooker Hall, land adjacent to 99 Drimnagh Road, Drimnagh, Dublin 12. The proposed amendments will comprise relocation of main entrance pedestrian doors and glass canopy over from the west end of the North/ Front Elevation, to the centre of the North/ Front Elevation facing Drimnagh Road of already approved Unit Number 3.

Reg.ref.3707/14: Permission **GRANTED** by Dublin City Council (20/01/15) Additional ESB Substation and minor amendments to existing previous planning permission reference number 3598/13. The proposed ESB Substation will be located to the south/east rear corner of the site. The proposed amendments will comprise (1) Addition of fire escape pedestrian door to the front/north elevation of Unit 1. (2) Addition of fire escape pedestrian door to the rear/south elevation of Unit 3. (3) The relocation of entrance pedestrian doors to the east elevation to Unit 1 and (4) The addition of a back of house pedestrian door to the west elevation to Unit 1. the total gross internal floor area of the proposed ESB Substation building is 23.50-s.qm.

Reg.ref.3598/13: Permission **GRANTED** by Dublin City Council (10/04/14) for mixed use development on a site of 0.2783 hectares at the site of the former Snooker Hall, land adjacent to 99 Drimnagh Road, Drimnagh Road, Dublin 12. The proposed mixed use development will comprise two single storey buildings. Building will accommodate a café to the front with outdoor café seating area fronting onto Drimnagh Road and local convenience store including a small off-licence to the rear unit. Building 2 will accommodate a Convenience Retail Unit including Pharmacy.

The total gross internal floor area of the proposed buildings is 928-sq.m. The development will incorporate one vehicular entrance/exit to Drimnagh Road with modifications to the footpath along the site frontage with associated landscaping site and service works and a totem advertising sign. This will also include a new boundary wall to the east, south and west of the development. The development provides 19 no. car parking spaces with 4 no. bicycle spaces within the site curtilage.

Reg.ref.3115/10: Permission **GRANTED** by the Board (26/01/11), upholding the decision of Dublin City Council, for the development of a four storey, mixed use building which comprises 2no. retail units at ground floor level with 17no. medical consulting rooms, plus offices and ancillary spaces above. Stated GFA of 2935sqm. The development provides 59no. car parking spaces within the site curtilage; 7no. on street parking spaces; 3no. motorcycle spaces and 4no. bicycle stands (32no. bicycle spaces). The site is at the former Snooker Hall, land adjacent to 99 Drimnagh Road, incorporating an area to rear of existing dwellings Nos.87-99 Drimnagh Road, 31-45 St Mary's Park and 1-5 St Mary's Park.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

Z4 District Centres: To provide for and improve mixed services facilities.

Z1 Sustainable Residential Neighbourhoods: To protect provide and improve residential amenities

Section 14.7 Transitional Zone Areas

Section 16.7.2 Height Limits: Table Building Height in Dublin

Section 16.38 Car Parking Standards - Table 16.1 Car Parking Standards

Section 16.39 Cycle Parking - Table 16.2 Cycle Parking Standards

5.2. Other Reference Documents

Design Manual for Urban Roads and Streets (2013)

Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2015)

5.3. **Natural Heritage Designations**

Dublin Bay site no.004024 c.7.5km to the east.

River Tolka Estuary SPA and South Dublin Bay SAC site no.000210 c,7.5km to the east.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The main grounds of appeal may be summarised as follows:

- Site notice – no site notice was erected on the service lane to the west until 23/03/17 [application made 24/02/17], and the site notice on Drimnagh Road was not erected in a conspicuous position but between advertising posters on hoarding. This was not taken into account by the Planning Authority and no action was taken under A.19(3) of the Regulations and could give rise to Judicial Review.
- Overlooking on St Mary's - Refusal reason no.1 PL29S.246433 has not been overcome, with excessive overlooking of no.17 St Mary's Park and the proposed mitigation measures ineffective and / or inappropriate:
 - The proposed louvres inadequate mitigation, as acknowledged in the Planning Officer's report, with no condition attached requiring they be '*fully louvered and screen and enclosed as a winter garden*'. Louvers can easily be removed.
 - The 1.5m cill height to south-facing windows serving living / dining rooms are contrary to paragraph 5.3.1 Best Practice Guidelines – Quality Housing for Sustainable Communities (DoEHLG, 2007), are aesthetically unpleasing and affect the level of sunlight / daylight accessing the proposed units.

- Height – the abrupt transition in height, together with overlooking, is contrary to paragraph 14.7 Transitional Zone Areas of the Development Plan. This section of the CDP was not given any weight by the Planning Authority, despite being cited in refusal reason no.1 of the Board.
- Refusal reason no.2 PL29S.246433 is proposed to be overcome through use of inappropriate design measures (angled fenestration, louvers, high cills and obscure glazing) for such rooms, contrary to the Best Practice Guidelines (2007) and Building Regulations Part B Fire (cill height for bedroom windows), necessitated by inadequate separation distance from the neighbouring district centre site.
- Enclosing balconies as winter gardens will reduce access to daylight and sunlight for living space.
- The views of the Planning Authority concerning potential impact on the development potential of the district centre are opposed to that of the Board and were dismissed by the Council’s Planning Officer and the design of the proposed development would dictate the design and layout of a potential multiple storey building on lands to the east.
- Other issues – no assessment of the objections is included in the Planning Officer’s report, contrary to provisions under the Act that equal weight be given to all submissions.
- The site layout plans do not show full extent of development on neighbouring sites.

6.2. Applicant Response

The main points of the applicant’s response may be summarised as follows:

- Height & scale:
 - permission was previously granted for a primary health care building of 16.5m under PL29S.236485 in 2010 compared to 13.825m currently proposed;
 - the Board Inspector to PL29S.222096 (refused) indicated they would have no objection to a 4-storey building with setback of at least 10m

from the southern boundary for provision of an elevated garden, compared to 17.59m currently proposed;

- height was not included as a reason for refusal under the recent refusal PL29S.246433 and the planning history indicates that the County Council and the Board consider 4-stories to be appropriate;
 - The scale has been reduced from 3,922-sq.m (2009) to 1,890-sq.m and is an appropriate transition in scale.
- Separation distance:
 - The separation distance from the opposing first floor windows to the south have been increased by 6.3m to 31.6m (25.3m previously);
 - 22m is the only separation distance standard under the Development Plan;
 - Dun Laoghaire Rathdown and Fingal County Council's each apply 22m minimum to opposing windows for apartments up to 3-storeys in height;
 - The separation distance is entirely appropriate and consistent with the principles of proper planning and sustainable development in an inner city suburb in the context of a housing crisis necessitating the sustainable and efficient use of urban land.
 - Neighbouring house extension:
 - The failure to show extensions to neighbouring development was dismissed by the Inspector under PL29S.236485 who considered that the encroachment of same could not be taken as a basis for limiting the development potential on the neighbouring lands;
 - The separation distance is at least 31.6m;
 - High elevation windows:
 - The proposal is consistent with the Best Practice Guidelines, taking account of the need for privacy of the neighbour developments while still providing for excellent amenity through extensive light penetration from windows and balconies.
 - Proposed eastern extension:

- The architect has provided the design solutions to allow light penetration whilst addressing the previous refusal reason of the Board by omitting overlooking with a contemporary building design.
- Fire safety issues
 - Dr Michael Quin from Michael Slattery & Associates Fire Engineers advise that the appellant's assertion concerning Part B of the Building Regulations (TGB:2006) is entirely inaccurate;
 - BS9991:2015 is deemed the appropriate standard under TGB: 2006, under which the proposed building is classified as a small building, with which compliance will be demonstrated in terms of travel distances with common escape routes and ventilation (under Figure 6 or 11, if necessary, of same) as part of the fire cert compliance application;
 - It is not necessary or appropriate to rely on escape or rescue via external windows under s.0.2.1 of that standard.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

I consider the main issues arising under the appeal can be addressed under the following headings:

- 7.1 Principle / policy
- 7.2 Design, form and visual impact
- 7.3 Impact on residential amenities

- 7.4 Traffic issues
- 7.5 Design standards
- 7.6 Other issues
- 7.7 Appropriate Assessment

7.1. Principle / policy

7.1.1. The site is zoned Z4 District Centres where it is the objective *'to provide for and improve mixed services facilities'*. The Dublin City Development Plan 2016-2022 provides that higher densities will be permitted in district centres particularly where they are well served by public transport. The site is adjacent a QBC and is approximately 1km from the Bluebell Luas stop and may be considered well served by public transport. The proposed retail use and residential uses are permitted in principle on this site.

7.1.2. The site is adjacent lands zoned Objective Z1 to the south where it is the objective *'to protect, provide and improve residential amenity'*. Section 14.7 Transitional Zone Areas states:

'In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting residential areas or abutting residential development within predominately mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals and to landscaping and screening proposals in order to protect the amenities of residential properties.'

7.1.3. In principle the proposed development is acceptable subject to protection of neighbouring amenities.

7.2. Design, form and visual impact

7.2.1. Streetscape and context – Height: The issue of height and scale was raised in the grounds of appeal. I would draw the Board's attention to the Photomontage Booklet submitted with the application. The immediate area is characterised by low-density

suburban house, mainly two-storey, but with some single storey dwellings opposite (north of) the site. The commercial development adjacent the east of the site is effectively two-storey in height, albeit with a single floor level. There are some isolated higher buildings in the vicinity, including a 5-storey apartment block within the district centre, c.215m to the west, and within the Children's hospital c.330m to the east. Development within the non-contiguous district centre to the west is more urban in character and this character has been reinforced by more modern development in recent years, although it is weakened by the high ratio of road space to building height.

- 7.2.2. The proposed development takes a somewhat more urban approach. It will contrast quite significantly with the existing character along this section of Drimnagh Road, including that of the adjacent commercial development developed since 2013. I consider this acceptable in principle in the context of the site. At close to 14m (parapet height) above road level it is well within the 16m limit in an outer city area under the Development Plan (section 16.7.2 Height Limits – table: Building Height in Dublin). I also note that the Board, under PL29S.236485, upheld the decision of DCC to grant permission (reg.ref.3436/09) for a primary care health centre medical building of similar scale.
- 7.2.3. Streetscape and context – Building line: The proposed building is setback c.6.6m from the edge of the carriageway (3.74m indicated from back of footway), a significant decrease from the 9.2m setback under the PL29S.246433 / Reg.ref.212/16. This brings the proposed building forward of the line of dwellings to the west (by c.2.5m) and of the building line of the commercial development to the east (by c.5.8m). I consider the reduced setback (and height) to be appropriate to the site context (high value context) and in view of the principles and standard (concerning enclosure of streets) under the Design Manual for Urban Roads and Streets. The setback was acceptable to the Planning Authority.
- 7.2.4. I consider the setbacks from the eastern boundary (above ground) and the western boundary (particularly at ground, which may create an undesirable environment) to be an inefficient use of the site but not unacceptable.

- 7.2.5. Elevation design: I consider the general elevation design to be acceptable, including the design of the corner balconies and mix of finished proposed, which is predominantly of brick.
- 7.2.6. The applicant has attempted to address the Board's refusal reason (no.2 under PL29S.246433, concerning impact on development potential of adjacent district centre land to the east) through redesign. In my professional opinion it is not the optimum approach, but it is not unacceptable and I note that the Planning Authority had no concerns in this regard. The quality of the eastern side apartments could be improved through employing projecting box windows (c.1.4m deep) in lieu of the oblique bays, with clear glazing on the northern and southern faces and timber clad panelling on the eastern face. This could be addressed by condition.
- 7.2.7. I note the planning authority attached a number of conditions relating to shopfront design (no.5), advertising (no.6) and window displays (no.7). Should permission be granted it would be appropriate for the details of shopfront and signage to be agreed by condition.
- 7.2.8. Conclusion: I consider the design, height and scale of the proposed development to be generally acceptable within this streetscape context and, in particular, regarding the provision of DMURS.
- 7.3. Impact on residential amenities
- 7.3.1. Visual overbearing: The issue of visual overbearing was raised in the grounds of appeal. The proposed 4-storey building is setback 16.5m of the party boundary with residential property at St Mary's Park to the south at the shortest distance (from west balconies) and c.17.5m at the greatest point. The visual impact on residential property to the rear at St Mary's will be significant but will not be seriously injurious to the amenities of the neighbouring residences.
- 7.3.2. Overlooking: The issue of overlooking was raised in the grounds of appeal. The design of the southern elevation and its set back from the boundary to residential property at St Mary's to the south (increased to at least 16.5m from 9.2m under PL29S.246433) is sufficient to prevent excessive overlooking and invasion of privacy of the neighbouring residential property to the south. As highlighted by the appellants, the proposed site plan (drawing no.1507 P0 1003) does not show the full

extent of development at no.17 St Mary's (adjacent to the rear), however I am satisfied that the 22m standard (although not strictly a requirement under Development Plan for such development) is achieved through the proposed development and that the proposed development will not seriously injure the amenities of property in the vicinity by way of overlooking.

7.3.3. Overshadowing: The proposed development will not unduly impact on neighbouring properties by way of overshadowing.

7.3.4. Conclusion: The proposed development would not seriously injure the amenities of property in the vicinity.

7.4. Traffic issues

7.4.1. Access: Traffic issues were not raised in the grounds of appeal. It is proposed to access the site off an existing service lane which provides access to the rear of the suburban terraced housing on Drimnagh Road to the west of the site and also to the later suburban housing at St Mary's Park and Hughes Road North and East. The service lane is approximately 5m wide (without pedestrian footways) and the junction to Drimnagh Road is setback behind the public footway (dished at the junction) running along the major road. The lane can accommodate through-traffic, being connected to Balfe Road c.210m to the west (also to southwest – c.400m route).

7.4.2. The Roads, Streets and Traffic Division report (13/04/17) had no objection to the access to the development via the existing 5m laneway to the west

7.4.3. On inspecting the appeal site and context I found the lane to accommodate parked cars on the western side for approximately 100m, and also along the connected lane running to the rear of the Drimnagh Road terraced housing to the west. It would appear that much of this parking is associated with Drimnagh Motors (sales) which operates from the corner site west of the appeal site and also, it would seem, from the rear of no.3 Hughes Road East. It is possible that some of the parking is associated with the existing housing or is commuter parking. There are no parking restrictions on the said service lanes and there is nothing in the RSTP report to suggest that parking controls may be introduced on the service lane (the Roads report on the previous case, PL29S.246433 / Reg.ref.2122/16, indicated that double lines may be introduced if necessary to ensure unobstructed access). I would

anticipate difficulties in introducing same in the context of the ongoing Drimnagh Motors operations. Whilst the RSTP report states that the lane width is sufficient to accommodate two-way traffic, it is clearly evident that two-way traffic is not possible with the current parking arrangements, which will present significant operational and possibly traffic safety issues with the development. Vehicular movements on the lane during my inspection were very low (mid-morning period). The Board may regard this as a **NEW ISSUE**.

7.4.4. The applicant anticipated the development being accommodated by two-way traffic flow along the lane, as demonstrated in drawing no.1586-DR02 and also in the Planning Application Services and Traffic Report by Boylan Engineering (see section 6 and auto-turning detailed in appendix 5 to same) submitted with the application. The said report anticipated and recommends the installation of double-yellow lines on both sides of the lane which, the report indicates, was discussed in pre-planning (to Reg.ref.2122/16). The minutes for pre-planning consultations do not refer to the introduction of on-street parking controls. The Boylan Engineering report does not present an accurate or realistic description of the existing traffic situation on the lane, and fails to note the existing parking situation or the use of the lane by Drimnagh Motors (and possibly for commuter parking).

7.4.5. Although I do not consider granting permission, in the absence of the prior resolution of the existing obvious parking and access situation on the lane, to desirable or consistent with the proper planning of the area, there was no objection from the RSTP. Also, the scale and nature of the development and parking provision proposals are not materially different to those in the previous case, which not refused on traffic / parking grounds. The surrounding public roads are within the control of the Local Authority and it is within the authority's power to introduce the necessary parking controls to remedy the situation, as it suggested in its report on the previous application¹. The Board may consider it appropriate to attached a condition requiring the developer to agree a traffic management plan for the proposed development inclusive of the service lane adjacent the site prior to the commencement of development on site, to be implemented prior to first occupation of the proposed development, in order to prevent traffic congestion and traffic safety issues from arising.

¹ The RSTP report did not make the same suggestion on this current case.

- 7.4.6. No works are proposed to the junction of the lane with Drimnagh Road, therefore pedestrian priority across the entrance to the lane will not be affected by the development.
- 7.4.7. The pedestrian facilities along the western boundary of the site to the lane are not consistent with the principles and standards of the Design Manual for Urban Roads and Streets, notwithstanding the flexible nature of the standards. The footway is only 1m in width (1.8m is the minimum space required to enable two people to pass in areas of low pedestrian activity, although shared surfaces may be provided) and is discontinuous, being omitted from across the site entrance and across the retail parking spaces. The alternative pedestrian route under the overhanging first floor level is indirect, includes steps, is enclosed, does not benefit from passive surveillance and is within private space that will not be taken in charge. Departure from DMURS requires derogation from the National Transport Authority (as the sanctioning authority). I consider this issue can be satisfactorily addressed by condition.
- 7.4.8. Car parking: Parking issues were not raised in the grounds of appeal and were not addressed in the Planner's Report, which did not note the content of the Roads, Streets and Traffic Division report (13/04/17) that issued subsequent to the Planner's Report (11/04/17) but prior to the decision of the Planning Authority (19/04/17). The RSTD had no objection to the parking provision (18no. in total: 4no. retail – maximum of 5no. required; and 14no. residential – maximum of 21no. required) having regard to table 16.1 of the Development Plan and the location of the site at the boundary of parking Zones 2 and 3, and to cycle parking provision (16no.), subject to standard type conditions. There is on-street parking on Drimnagh Road also.
- 7.4.9. I consider the provision of 1no. parking space per residential unit acceptable and consistent with Dublin City Development Plan standards and Government Policy, particularly having regard to its siting adjacent a QBC given the site's specific context and its location at the boundary of parking zones 2 and 3, having regard to S.16.38 Car Parking Standards under the Development Plan and to the size of the units proposed (1 and 2 bed units). In the absence of parking controls on the service lanes, it is likely that such development will result in further uncontrolled parking on the lanes.

- 7.4.10. 14no. private cycle parking spaces are proposed to the rear, with 2no. public spaces to the side. This is consistent with the requirements under table 16.2 Cycle Parking Standards under the Development Plan and is acceptable to the Roads Department. It would be preferable to relocate the public bicycle parking to the front of the building line as the proposed facility would not be visible due to the proposed screen wall, reducing its utility and security. This may be addressed by condition.
- 7.4.11. I note the Council's requirement, under condition no.11, to, inter alia, remove the proposed bollards surrounding the proposed area of public space to the front of the scheme. I would be inclined to permit suitable bollards, or other design elements (e.g. tree planting) necessary to prevent vehicular parking in that area given the evidence of uncontrolled parking on similar space in the neighbouring development to the east.
- 7.4.12. Conclusion: The proposed development would not have and an adverse impact on traffic and traffic safety subject to compliance with conditions.

7.5. Design standards

- 7.5.1. Internal space: An Apartment Housing Quality Assessment Table is included in report of Thornton O'Connor Town Planning consultants submitted with the application, which details the minimum required standards (floor area and dimensions) for the proposed units. The Planning Authority was satisfied that the proposed units complied with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2015) in terms of internal spaces. The one and two-bedroom units would exceed the minimum 45-sq.m and 73-sq.m standards, respectively, and the units appear to be of good standard in terms of layout and internal room dimension.
- 7.5.2. Private / communal open space: The applicant proposes private open space in the form of private balconies, a roof garden of 65.5-sq.m stated area and a communal open space of 81.6-sq.m at ground. The proposed development therefore exceeds the private open space standards of 5-sq.m and 9-sq.m for one-bedroom and two-bedroom units under the aforementioned design standards. The dimensions of the balconies are of good standard, though the usable dimensions are less than indicated.

7.5.3. I note the landscaping proposals detailed on drawings nos.101, 102 and 103 and the Landscape Report and Outline Landscape Specification report submitted by the applicant. The proposed landscaping at ground floor and roof garden (third floor) level is acceptable. The area to the front of the site is hard landscaped and generally appropriate to the public realm, however condition no.11 attaching to the decision required the landscaping details of the said area to be agreed with the planning authority and specified that no vegetation or soft landscape shall be provided front of the building line. I consider these requirements reasonable. Should permission be granted, it should be required by condition that all landscaping of communal open spaces is completed prior to the first occupation of the proposed residential units.

7.6. Other issues

7.6.1. The appellants submit that the site notice was not erected until 23/03/17, approximately 1 month after the application was made (24/02/17), and that it was not erected in a conspicuous location but between existing advertisements on hoardings at the front of the site.

7.6.2. It is a function of the Planning Authority, not the Board, to validate site notices and planning applications. The Planning Authority found the site notice in place on the day of inspection, 27/03/17, within the 5-week period (consistent with the advice of the Development Management Guidelines (2007)) and the application was deemed valid.

7.7. Appropriate Assessment

7.7.1. Having regard to the scale of the proposed development, comprising a relatively small retail and residential block within the built up area of Dublin, and the separation distance between the site and the nearest Natura 2000 sites (c.7.5km from South Dublin Bay site no.004024 and River Tolka Estuary SPA and South Dublin Bay SAC site no.000210) 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 permission be **GRANTED** subject to the conditions under section 10.0.

9.0 Reasons and Considerations

Having regard to the land use zoning objective for the site, Z4 District Centres where it is the Council's objective '*to provide for and improve mixed services facilities*', to the zoning objective of the adjacent lands to the west and south, Z1 Sustainable Residential Neighbourhoods where it is the objective '*to protect, provide and improve residential amenity*', and to the nature, scale and layout of development, it is considered that the proposed development would not seriously injure the amenities of property in the vicinity and would be consistent with the proper planning and sustainable development of the area subject to compliance with the conditions set out under section 10.0.

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 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. Prior to the commencement of development, the developer shall submit revised drawings showing the oblique projecting bays on the east elevation replaced by projecting box bays of approximately 1.4m in depth (parallel to the east elevation) with full clear glazed panels to the northern and southern faces and fixed timber clad panelling on the eastern faces, to be

agreed in writing with the planning authority.

Reason: In the interest of increasing the access to light and improved residential amenity to the apartment units.

3. (a) Prior to the commencement of development, the developer shall submit full details of a traffic management plan for the proposed development, inclusive access and egress via the adjacent service lane(s) to the west of the site, addressing in particular the presence of uncontrolled on-street car parking on the lane(s) which restricts two-way traffic and obstructs access to parking spaces within the development, to be agreed in writing with the planning authority.

(b) The traffic management plan agreed under part (a) of this condition shall be implemented prior to first occupation of the development.

Reason: To ensure that vehicular access to the development operates in accordance with the plans and details submitted with the application and in the interest of traffic safety.

4. (a) Prior to the commencement of development, the applicant shall submit revised design proposals, in accordance with the Design Manual for Urban Roads and Streets (2013), providing a public footway along the full length of the site's western (lane-side) boundary suitable to a standard suitable to be taken in charge by the local authority, to be agreed in writing with the planning authority.

(b) The pedestrian footway shall be 1.8m in width and shall be continuous (uninterrupted) along the length of the site, finished in a consistent material to clearly distinguish it from the vehicular carriageway. The footway shall be dished at the vehicular entrance to the development and to the retail parking spaces.

(c) The pedestrian footway between the ground floor (west elevation) and the retail car parking spaces, and between the communal open space and the retail car parking spaces, shall be omitted. The retail car parking spaces shall be relocated eastwards approximately up to the ground floor elevation of the building. The southernmost retail car parking space shall

be also relocated southwards to facilitate access to the side door of the retail unit.

(d) The entrance to the residential development via the communal open space shall be relocated to the western (lane-side) boundary and the western boundary of the development site shall be setback from the lane only so far as is necessary to accommodate the 1.8m wide pedestrian footway.

(e) The screen wall to the north of the retail parking spaces shall be extended eastwards up to the side of the ground floor elevation and shall be recessed in its entirety behind the line of bicycle parking bays which shall be accessible from the public space to the north of the site.

Reason: To provide for pedestrian facilities to the standard required under the Design Manual for Urban Roads and Streets, in the interest of traffic safety and in the interest of the proper planning and sustainable development of the area.

5. Prior to the commencement of development, the developer shall submit full details of signage and shopfront to be agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

6. Security roller shutters, if installed, 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.

7. 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: To protect the visual amenities of the area

8. (a) Prior to the commencement of development, the developer shall submit a map of suitable scale delineating those areas which are proposed to be taken in charge by the Local Authority to be agreed in writing by the planning authority.

(b) The management and maintenance of the proposed development, other than any such areas agreed to be taken in charge by the planning authority, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the residential or commercial units are made available for occupation.

(Reason: To provide for the future maintenance of this development in the interest of residential amenity and orderly development.

9. a) All landscaping to communal open space, including roof garden, shall be completed in accordance with the submitted landscaping plans, prior to first occupation of the residential units.

(b) Prior to the commencement of development the applicant shall submit revised landscaping plans for the public area to the front (north) of the development, which shall provide for permeable, hard landscaping with quality paving, shall exclude soft landscaping or vegetation other than individual trees and shall include details of any bollards and / or other suitable design features (e.g. tree planting) necessary to prevent use of the landscaped area for vehicular parking.

Reason: In the interests of amenity and the proper planning and sustainable development of the area.

10. 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.

11. 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.

12. The operation of the development shall comply with waste management requirements of the planning authority for such works and services.

Reason: In order to ensure a satisfactory standard of development.

13. (a) During construction and demolition phase the development shall comply with British Standard 5228 'Noise Control on Construction and Open Sites Part 1, Code of Practice for Basic Information and Procedures for Noise Control'.

(b) Noise levels from the development shall not be so loud, so continuous, so repeated, of such duration or pitch or occurring at such times as to give reasonable cause for annoyance to a person in any premises in the neighbourhood or to a person lawfully using any public place. In particular, the rated noise levels from the proposed development shall not constitute reasonable grounds for complaint as provided for in B.S. 4142 Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas.

Reason: In the interest of residential amenity.

14. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and

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

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

15. 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.

16. The developer shall pay to the planning authority a financial contribution of €157,004 (one hundred and fifty-seven thousand and four euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable

indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

John Desmond
Senior Planning Inspector

17th August 2017