



An  
Bord  
Pleanála

## Inspector's Report ABP-301201-18

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<b>Development</b>	Construction of an additional floor (i.e. six storey over basement) to provide 11 no. apartments
<b>Location</b>	Block A2, Baileys Court, Summerhill, Dublin 1, bounded by Buckingham Street Upper, 67 to 69 Summerhill [Protected Structures], Bailey's Row and Portland Row.
<b>Planning Authority</b>	Dublin City Council
<b>Planning Authority Reg. Ref.</b>	4588/17
<b>Applicant(s)</b>	Randalswood Construction Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Randalswood Construction Ltd.
<b>Observer(s)</b>	Roger Morgan; Transport Infrastructure Ireland

**Date of Site Inspection**

15<sup>th</sup> October 2018

**Inspector**

Una O'Neill

## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	5
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	5
3.3. Prescribed Bodies .....	7
3.4. Third Party Observations .....	7
4.0 Planning History.....	7
5.0 Policy Context.....	10
5.1. National Policy .....	10
5.2. Dublin City Development Plan 2016-2022 .....	10
5.3. Natural Heritage Designations .....	12
6.0 The Appeal .....	12
6.1. Grounds of Appeal .....	12
6.2. Planning Authority Response.....	13
6.3. Observations .....	13
6.4. Further Responses.....	13
7.0 Assessment.....	14
8.0 Recommendation.....	21
9.0 Reasons and Considerations.....	21

## 1.0 Site Location and Description

- 1.1. The subject site is located on Summerhill/Duke Row between the junctions with Buckingham Street Upper and Portland Row. The adjoining buildings and wider block, known as Bailey's Court, has been the subject of regeneration and redevelopment, approved originally in 2004 and completed in recent times. The overall regeneration of this block, comprising primarily apartments, has provided for the renovation and reuse of existing historic buildings, in particular St. Joseph's Convent (protected structure), 67 Summerhill (protected structure) and 69 Summerhill (protected structure), with the insertion of modern buildings into the historic streetscape and intensification of use of the block, providing for overall 134 apartments; some ground level community occupied units at street level onto Summerhill; basement car parking; and two internal communal courtyards.
- 1.2. Block A2, which is the subject of this appeal, is an existing rectangular four-five storey over basement building (with level distances from front to rear of site), 13m wide x 62m deep, positioned on the west side of an existing gated street, Bailey's Row, which bisects the block, connecting Summerhill to Portland Row. The building to the front of and linked to this block, is 69 Summerhill, which presents as a three storey building (with set-back fourth storey), with the façade a retained protected structure, forming part of a terrace of four buildings onto Summerhill, up to the junction with Buckingham Street Upper. To the rear of the building is a connecting stairwell/lift shaft which links with the modern rear section of the Block which is a four-five storey block with frontage onto Bailey's Row. The adjoining buildings on Summerhill have been redeveloped and a second apartment Block, identified as A1, is positioned behind no. 66 and fronting onto Buckingham Street Upper, with Block A2 and A1 sharing a triangular communal open space in the centre of the block, which also serves as communal space for no. 67 Summerhill. On the opposite site of Bailey's Row adjoining the entrance and fronting onto Summerhill/Duke Row is Block B, a five-six storey building over basement, with the upper floor recessed (subject of a concurrent appeal for an additional floor). Block A1, which comprises five floors over basement, with the upper floor recessed, has permission for an additional recessed sixth floor, which has not to date been constructed.

1.3. The site has a stated area of 955sqm, while the existing building has a stated area of 3100sqm.

## 2.0 Proposed Development

2.1. The proposed development comprises the following:

- Construction of an additional floor to existing four storey over basement residential block so as to comprise five floors over basement.
- Additional floor to comprise eleven apartments (two x one bed and nine x studio apartments).
- The proposed floor area is 589 sqm.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission REFUSED for the following reason:

The proposal provides for nine residential units which have floor areas below the minimum 45m<sup>2</sup> required for one-bedroomed apartments under the DOECLG standards as set out in 'Sustainable Urban Housing: Design Standards for New Apartments' (2015). The proposed units are stated as being studio apartments; however, these are permissible only in certain circumstances such as managed 'build to let' developments which provide additional shared facilities. Having regard to the failure to meet minimum floor area standards, or to provide for any additional communal open space for the proposed new units, the proposal would result in substandard development which would be seriously injurious to the residential amenities of existing and future occupiers in the development, thus being contrary to the provisions of the Dublin City Development Plan (2015-22), to the DOEHLG guidelines and to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planning Officer's report generally reflects the decision of the Planning Authority. The following is of note:

- The studio apartments have separate bedrooms and would be better described as one bedroom units. As such they do not meet the minimum required in the development plan or in national guidance (Design Standards for New Apartments 2015).
- Studio apartments would usually only be permitted as part of managed 'build to let' developments which have additional shared facilities external to the units, such as reception area, gym or additional storage. There is no evidence that the proposal provides for such facilities.
- No details of bicycle storage or refuse storage has been submitted.
- Private open space is proposed, but no additional communal space is proposed.
- Photomontages showing the impact of the proposal to the streetscape have not been submitted.
- No shadow analysis has been submitted. It is likely that any overshadowing would be of the existing apartments on the opposite side of the internal street.
- In the event that an application is made for residential units meeting the minimum standards, the planning authority would need to be satisfied that the proposal would not result in undue overlooking or overshadowing or have an adverse impact on the streetscape.

### 3.2.2. Other Technical Reports

Roads and Traffic Planning Division – No objection subject to condition.

Engineering Division – No objection subject to condition.

Waste Regulation Section – No objection subject to condition.

Conservation Officer – No review undertaken.

### 3.3. Prescribed Bodies

TII – The site falls within the area of the S49 Levy scheme Luas Cross City (St. Stephen's Green to Broombridge Line) Contribution Scheme Levy. If this application is not exempt, a levy should be applied.

### 3.4. Third Party Observations

One third party observation was submitted, which is summarised as part of the appeal hereunder.

## 4.0 Planning History

**PL29N.204138** [DCC ref 4605/02] – Parent Permission

Split decision – Permission GRANTED for 92 residential units:

- **Block A** (includes eastern section of Block A, later identified as Block A2) – 45 apartments, in 1 x five and six-storey courtyard apartment buildings (12 x 1 bed; 28 x 2 bed and 5 x 3 bed), over ground floor comprising a pub, office units, local enterprise and incubator units, over basement car park.
- **Block B** – 29 apartments in 1 x six-storey apartment block (9 x 1 bed; 16 x 2 bed and 4 x 3 bed), over ground floor comprising office units, local enterprise and incubator units, over basement car park.
- **St Josephs Convent** refurbished for 18 student accommodation units on Duke Row/Portland Row.

*I note the above final figures are as a result of condition 2, which omitted a floor from Block A (section adjoining Baileys Row and behind 69 Summerhill) and from Block B.*

Permission REFUSED for

- Block C - 1 x six-storey apartment block consisting of one no. one-bedroomed and 11 no. two-bedroomed apartments on lands to rear of 9 Buckingham Street and Bailey's Row and granted for remainder of development

**3211/06** Permission GRANTED for development to consist of amendments to approved planning permission (Reg. Ref. 4605/02, An Bord Pleanála Ref. PL29N.204138); as follows:

- 1 additional apartment permitted in Block A, reintroducing a fourth floor level immediately to the rear of no 69 (previously omitted by condition; existing units were permitted on this level further set back from the front elevation). *I note six apartments were proposed, but four were omitted by condition and the two fourth floor units were amalgamated into one.*
- one new retail unit at ground floor onto Summerhill, and
- three amended incubator units at new lower ground floor with new storage under Bailey's Lane;
- new community facility at ground floor onto Buckingham Street;
- lowering of part of the permitted basement with associated amendments to pub and increase in basement area to provide 73 car spaces in total;
- increase in height of permitted staircore facing internal courtyard to house telecom antennae including all associated ancillary work, landscaping and lowering of courtyard level of St. Joseph's Convent.

*Note: The number of units overall permitted as a result of this application increased by 1 with the total number broken down as follows:*

- Block A - 46 apartments, consisting of 12 x 1 bed, 29 x 2 bed and 5 x 3 bed.
- Block B – 29 apartments, consisting of 9 x 1 bed, 16 x 2 bed and 4 x 3 bed.

**3149/09** - Permission GRANTED for amendments to include

- change of use of 11 lower/upper ground floor units (i.e. two retail, one meeting room, one antenna room and seven incubator units) to 12 educational units, retail unit and betting office and 19m<sup>2</sup> extension to rear of proposed ground floor educational use to south elevation of block B, terraced walkway at upper ground floor level of block B (south and east elevations)



- amendments to landscape proposal to internal courtyard area to block B including new access ramp
- extension of two stairs and lift cores in Block B to allow for 73sqm additional communal private roof terraces and
- reconfiguration of basement boundary wall adjacent to St. Joseph's Convent (protected structure).

**3522/09** – Permission GRANTED for gates at the entrance to Bailey's Row from Duke Row and permission REFUSED for gates at the entrance to Bailey's Row from Portland Row.

**3666/14** - Permission GRANTED for amendments to Block A and Block B, largely comprising change of use of commercial/education units to residential units. The following summarises the key elements of the permitted development (as amended by condition 2 of the permission whereby 2 apartments were merged into one):

Block A: 8 additional apartments (3 x 1 bed, 4 x 2 bed and 1 x 3 bed).

Block B: 7 additional apartments (4 x 2 bed duplex, and 3 x 3 bed duplex).

The development also permitted an extension of courtyard area in Block A, provision of gym (c. 78 sq.m) and locker storage facility at lower ground floor level of Block A.

*Overall this amended application results in the following total permitted numbers:*

*Block A - 54 apartments, consisting of 15 x 1 bed, 33 x 2 bed and 6 x 3 bed.*

*Block B – 36 apartments, consisting of 9 x 1 bed, 20 x 2 bed and 7 x 3 bed.*

**3726/14** – Permission GRANTED to convert no. 67 into 4 residential units (1 x 3 bed apartment and 3 x one bed apartments) and link this to no. 69 and connects to rear courtyard area. The 3 bed apartment has 37sqm private open space at ground level. The 3 x 1 bed apartments have no private open space and given the structure is protected none is proposed.

### **Block B - Amendments**

**ABP-302038-18** – Concurrent APPEAL by first party against REFUSAL for additional floor to Block B to provide 8 apartments.

### **Block A1 - Amendments**

**2570/18** – Permission GRANTED for extension of the existing fifth storey and creation of a sixth storey to Block A, to accommodate eight x 1 bed apartments (replacing previously permitted 2 x 1 bed and 1 x 3 bed apartments, resulting in a net increase of 5 apartments). This permission can only be implemented if 4099/16 is not constructed.

**4099/16** – Permission GRANTED for extension of the existing fifth storey and creation of a sixth storey to Block A, to accommodate four x 2 bed duplex units.

**The following permissions relate to St. Joseph’s Convent:**

**PL29N.218848** [DCC ref 3057/06] – Permission GRANTED to convert permitted 18 student accommodation into 27 apartments in St. Joseph’s Convent (12 x 1 bed, 12 x 2 bed, 2 x 3 bed, and 1 x 4 bed).

**3884/14** – Permission GRANTED for additional 16 apartments in St. Joseph’s Convent (12 x 3 bed and 4 x 2 bed).

*Overall, total apartments in St. Joseph’s Convent Permitted: 43 apartments (12 x 1 bed, 16 x 2 bed, 14 x 3 bed and 1 x 4 bed).*

## 5.0 Policy Context

### 5.1. National Policy

- Project Ireland 2040 National Planning Framework (2018)
- Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities (2018)
- Design Manual for Urban Roads and Streets (DMURS) (2013)

### 5.2. Dublin City Development Plan 2016-2022

- **Zoning Objective Z5** – ‘to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity’.
- **Protected Structures** on Portland Row and Summerhill Road (proximate to the appeal site):

- RPS 6838: Portland Row; Convent
- RPS 7865: 66 Summerhill; Licensed Premises
- RPS 7866: 67 Summerhill; House
- RPS 7876: 69 Summerhill; Licensed Premises
- **Chapter 5:** Quality Housing.
- **Plot ratio** in this zoning is between 2.5 and 3.0.
- **Site coverage** recommended is 90%.
- **Section 16.7.2**, Building Height: Up to 28m (commercial); Up to 24m (residential).
- **Section 16.2.2.2 and 16.10.10**, Infill Development.
- **Section 16.2.2.3**, Alterations and Extensions.
- **Section 16.10.1**, Residential Quality Standards, Apartments.

The following policies are of note:

- **Policy SC13:** To promote sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city, which are appropriate to their context ... having regard to the safeguarding criteria set out in Chapter 16 (development standards)...and for the protection of surrounding residents, households and communities.
- **Policy QH1:** To have regard to the national guidelines relating to residential development...
- **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.
- **Policy QH18:** Promote high quality apartments and amenity within individual apartments and within each apartment development...

- **Policy CHC1:** To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.
- **Policy SC17:** To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city...In particular, all new proposals must demonstrate sensitivity to the historic city centre, the River Liffey and quays... and to established residential areas...
- **Policy SC25:** To promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate.

### 5.3. Natural Heritage Designations

The site is not located within or adjacent to a Natura 2000 site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The first party grounds of appeal is summarised as follows:

- The area around the appeal site includes taller buildings, ranging from 4 to 6 storeys. The HSE health care building on Summerhill is under construction and will be 17 metres high. A fifth floor level has been permitted to Block A1 in the Bailey's Court development (west of Block A2, the appeal site). The proposed development is in accordance with the building height strategy for the area, which allows for 24m.

- The Guidelines on Design Standards for New Apartments, referred to in the reason for refusal, were updated in March 2018, post the decision from DCC. The apartments now meet current minimum standards and are in accordance with Specific Planning Policy Requirement 1, 2 and 3.
- The existing development has 137 apartments. With the proposed development, the complex will comprise 148 apartments, comprising 40 x 1 bed; 69 x 2 bed; 22 x 3 bed; 8 x 4 bed; and 9 studio apartments. The proposed represents a sustainable form of development and provides for an appropriate mix of units.
- The NPF supports compact growth and targets a greater proportion (40%) of future housing to be within and close to the existing footprint of built-up areas. It seeks to make use of underutilised land and buildings, including infill and brownfield sites, with higher housing and job densities.

## 6.2. Planning Authority Response

No further comments received.

## 6.3. Observations

One observation has been received from the owner of no. 7, 8 and 9 Buckingham Street, which can be summarised as follows:

- No. 7, 8 and 9 are in residential use. The addition of an extra floor will further intrude on the privacy of the residents due to overlooking as a result of the increased height and proximity.
- The site is already overdeveloped and the building is inappropriately large in relation to the adjacent listed buildings of numbers 7, 8 and 9.
- The ABP permission originally granted 4 storeys at this location and not the 5 that now exists.

## 6.4. Further Responses

None.

## 7.0 Assessment

- 7.1. The applicant proposes to construct an additional floor to this existing four-five storey over basement building, referenced as Block A2, with the provision of eleven apartments (two x one bed and nine x studio apartments).
- 7.2. 136 apartments currently exist within the overall development block, which includes Block A (A1 and A2) and no. 69, no. 67, Block B and St. Joseph's Convent. A recent permission for an extra floor to Block A1 results in a net increase of 5 units to the overall development, ie a total of 142 units. Bailey's Court, including the unbuilt additional 5 units, comprises the following mix of units:

**Block A** (comprising 2 blocks, A1 and A2) - 59 apartments, consisting of 21 x 1 bed, 33 x 2 bed and 5 x 3 bed.

**Block B** – 36 apartments, consisting of 9 x 1 bed, 20 x 2 bed and 7 x 3 bed.

**No. 67** – 4 apartments - 3 x 1 bed, 1 x 3 bed.

**St. Joseph's Convent** – 43 apartments (12 x 1 bed, 16 x 2 bed, 14 x 3 bed and 1 x 4 bed).

There are two communal courtyards within the scheme, one serving Block A and no. 67, the other serving Block B and St. Joseph's Convent, albeit both are accessible to all apartments.

- 7.3. I note there is a concurrent appeal before An Bord Pleanála, ref ABP-302038-18, which seeks to add an additional floor of 8 apartments to Block B, which is directly opposite Block A2 (subject of this appeal), on the opposite side of Bailey's Row.

### Zoning

- 7.4. The subject site is located within zoning objective Z5, the objective for which is 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. I consider the development of additional apartments as proposed to be acceptable in principle within the zoning objective for the area.
- 7.5. I consider the relevant issues in determining the current appeal before the Board are as follows:
- Apartment Sizes and Guidelines

- Height & Impact on Protected Structures and the Streetscape
- Impact on Existing Residential Amenity
- Communal Open Space
- Public Open Space

### **Apartment Sizes and Guidelines**

- 7.6. The applicant proposes to construct eleven apartments (two x one bed and nine x studio apartments). Part of the refusal reason issued by DCC was on the basis of the nine studio apartments being contrary to national guidelines. The DCC planner's report notes the studio unit types proposed have a separate bedroom and would therefore be more accurately described as a one-bedroom apartment.
- 7.7. The applicant has appealed the decision on the basis that the said guidelines for apartments were updated in March 2015 and the studios now comply with these guidelines.
- 7.8. I have assessed the proposed development against the guidelines Sustainable Urban Housing: Design Standards for New Apartments (2018). In accordance with Specific Planning Policy Requirement 3, minimum apartment floor areas are as follows:
- Studio apartment (1 person) 37 sqm
  - 1-bedroom apartment (2 persons) 45 sqm
- 7.9. The guidelines define a studio type apartment as a small unit with a combined living/sleeping area, generally provided for a single person.
- 7.10. Nine studio apartments are proposed, eight of which have a stated floor area of 40sqm and one is 43.8sqm. In examining the layouts, I note that five of the studio apartments (apartments 49, 51, 54, 55 and 58) are designed with the bedroom separated from the living areas by sliding doors, therefore by virtue of their design they cannot in my view be classified as studio apartments but rather as one bed units, which have a requirement for a minimum floor area of 45sqm each. I note in particular that 'studio' apartment 49 (43.8 sqm in area) has the same layout as the 'one bed' apartment 48 (49.51 sqm in area). It would appear the two units have been classified differently in order to meet minimum standards of 40sqm and 45sqm for a

studio and one bed respectively. I further note that proposed apartment 50, which is a one bed unit with a floor area of 62sqm, comprises a separate study which measures as 8.38sqm, the size of a single bedroom. If this study were to be utilised as a bedroom, the floor area of this apartment would be below the minimum floor area of a two bed which is 63sqm.

- 7.11. Overall, in my view, the design proposed applies an inappropriate classification of apartment types as defined by the guidelines, and therefore fails to meet minimum floor area and private amenity space standards and would fail to deliver quality apartment living.

### **Unit Mix**

- 7.12. In considering unit mix, I have had regard to Design Standards for New Apartments (2018) and Specific Planning Policy Requirement 1 contained therein, whereby apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios). It is appropriate in my view to consider the entire development and not just Block A2 when considering unit mix, as the blocks are inter-related, sharing communal open spaces, basement parking and services such as refuse storage, and all are in the same ownership. I have included within my review of units mix the most recent permission for an additional floor to Block A1 of 8 apartments.
- 7.13. Based on an assessment of the planning history, I calculate that the whole development accommodates a total of 142 apartments within the overall Bailey's Court development. By my calculations the development (including 2570/18) provides for 45 x 1 bed units; 69 x 2 bed units; 27 x 3 bed units; 1 x 4 bed unit. 1 bed units therefore account for 31% of the development.
- 7.14. The proposed development would result in an additional 11 apartments of one bed and studio type, which would result in a total of 47 one bed and 9 studio units, totalling 56 units of one bed/studio mix within the overall development, equating to 34% of the overall development. Taking into account the proposal under concurrent appeal ABP-302038-18 in the calculations, the proposed number if all were permitted would still fall below the 50% and 20-25% margins identified in SPPR1.

### **Communal Open Space**



- 7.15. While not addressed by the applicant in the grounds of appeal, part of the reason for refusal related to the failure to provide for additional communal open space. The document Sustainable Urban Housing, Design Standards for New Apartments, (2018) states the minimum required areas for public communal amenity space. A studio apartment generates a requirement of 4sqm and a 1 bed requires 5sqm. I also note that the guidelines state 'for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality'. In my view this latter statement does not apply to this case, given the overall size of the site in question and the completed nature of this scheme which could not be justifiably categorised as a refurbishment scheme.
- 7.16. Based on the description of development for nine studio units and two one bed apartments, the proposal would result in a requirement for 46sqm communal open space. No additional communal open space is proposed by the applicant. I note Dublin City Council permitted a net increase of five units over Block A1, with no requirement to provide an increase in communal open space, which would have equated to an additional area of 24sqm.
- 7.17. There are two existing communal areas (approx. 990sqm in area) within the Bailey's Court development, which serve a total of 142 apartments, including Block A1 and A2 (including reg ref 2570/18 for 8 one bed units not yet constructed), Block B, 67 and 69 Summerhill, and St. Josephs Convent. While I acknowledge that the development has been constructed over a period of time when different open space policies were in force, I note, for reference purposes, that based on current standards the 142 units permitted would require a communal area of approx. 960 sqm.
- 7.18. While there is adequate space when one considers the two communal areas, I consider it appropriate to consider further the communal space on the basis of the blocks which they serve and not combined, in order to satisfactorily address the intensification of the blocks proposed in this and the concurrent appeal for Block B and as already permitted for Block A1.
- 7.19. Block A1, A2 and no. 67 share the existing triangular communal open space, 407sqm in area, within this section of the block, which caters for a total of 63

apartments. While this area was permitted prior to the standards set out in the 2018 guidelines on apartments and communal space, I nonetheless have assessed the space against these guidelines to adjudicate on whether the level of communal space which exists is above the current standard for such a scheme and therefore whether an intensification of use proposed by the additional apartments could be accommodated within the existing area. Based on current standards, a communal area of 405sqm would be required to cater for the existing 63 apartments. What exists is 407 sqm, as stated on the plan submitted as part of the grounds of appeal, therefore there is no excess area within this existing communal space, which could be off-set against the current proposal. I note the overall development area, when both communal areas are considered jointly, does provide for an excess of communal area of approx. 33sqm based on current standards against which one could off-set the additional requirement. However, this has been offset against the proposed development of Block B (concurrent application), where it is more practical to consider the excess for that block serving the additional units to be accessed off that block.

- 7.20. The resultant intensification of the use of this communal space by an additional storey, with no additional provision of communal area or facilities within this or the communal area in the neighbouring block is not in my view acceptable in terms of meeting current amenity standards for the new development. The proposed development would generate a requirement of 46sqm. I consider the provision of a roof terrace may overcome this issue. This is an issue which could be addressed by condition, where the Board minded to grant permission.

### **Height and Impact on Protected Structures and the Streetscape**

- 7.21. Block A2 is approx. 14.4m high, with the proposed additional floor bringing it to 17.6m high. Block A1, which was permitted an additional floor (ref 2570/18), has a permitted increased ridgeline of 70.45mOD, in line with the proposed ridgeline of A2 of 70.55mOD, as stated on the proposed roof plan. Existing Block B (opposing Block A2) has an existing ridgeline of 68mOD, and maximum lift shaft height of 70.57m, as stated on the roof plan. The concurrent appeal, which is for an additional floor to Block B, indicates a proposed ridgeline increase of 3.075m, bringing this up to 71mOD (overall height of 18.2m). The development plan allows for a height of 24m in this area.

- 7.22. ABP ref PL29N.204138 reduced the height of this building by one floor. It is likely this was undertaken to protect the character of the retained protected structure onto Summerhill. An application was subsequently permitted (ref 3211/06) by Dublin City Council for an additional recessed floor as the applicant indicated the front façade would be structurally compromised without support to the rear. The recessed floor permitted is only marginally visible from the street given the manner in which it was designed and set back, thereby protecting the character and presentation of the façade to the street.
- 7.23. I consider the proposed addition of a floor to Block A2, behind no. 69, would seriously detract from the retained façade of no. 69 and would by virtue of its scale and proximity dominate it and be visually incongruous. The purpose of retaining this façade was for its architectural quality. To build an additional floor as proposed would in my view have an adverse impact on the protected structure and its retained façade. Should the Board be minded to grant permission, I am of the view that apartments 48 and 49 should be omitted from the development. The proposed apartments to the rear of this, ie nos. 50 – 58, would in my view be sufficiently set back from no. 69 (approx. 7.3m) so as to protect the character of the building. Furthermore, given the permitted increase in height of Block A1, I consider a similar increase in height for the rear section of A2 would not be incongruous when viewed from the wider area.
- 7.24. With regard to policy guidance, I note the appeal site is centrally located in the north inner city of Dublin, is in close proximity to a range of services within walking distance, and is proximate to a number of high quality public transport services. It is an objective of the NPF to support the growth of cities versus their outward expansion through increase densities and better utilisation of existing sites within urban areas. I consider the additional residential floor to this development supportive of this national objective. Overall, I am of the view that additional height could be supported at this location, subject to apartments 48 and 49 being omitted from the scheme.

### **Impact on Existing Residential Amenity**

- 7.25. The observer to the appeal raises concerns in relation to impact of the increased height on existing neighbouring properties of No. 7, 8 and 9, which are in residential

use, in terms of overbearance, overlooking and loss of privacy. It is stated that the ABP permission originally granted 4 storeys at this location and not the 5 that now exists.

- 7.26. I note that ABP originally permitted three storeys over basement, with a subsequent permission granting four storeys over basement.
- 7.27. I do not consider the addition of one storey would significantly increase the level of overbearance or result in increased overlooking/loss of privacy on nos 7, 8 and 9 Buckingham Street Upper, above what already exists at this location. The back-to-back distances between the apartment units in Block A2 and nos. 7 and 8 of approx. 9m-13m are in my view acceptable in this inner urban location. Block A2, and the proposed additional floor, is not directly to the rear of no. 9 therefore no direct overlooking/loss of privacy will occur.

### **Other Matters**

- 7.28. With regard to the planning history on the site, the main amendments to the overall development (with the exception of the recently permitted floor to Block A1) were permitted under planning reference 3666/14. It would appear that this scheme has been largely implemented, although it is unclear if all the units have been changed to residential as permitted. I further note the existing site layout indicates apartments 41 and 42 as two units. It was a condition of permission 3211/06 that these units be amalgamated into one. A permission cannot be implemented in part but must be implemented as a whole. Any enforcement issues are a matter for the planning authority. I have undertaken an assessment of this site on the basis that all the permissions enacted have been delivered in their entirety, with the exception of the more recent permission relating to an additional floor above Block A1, which I note has not yet been constructed.

### **Appropriate Assessment**

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

### **Environmental Impact Assessment**

7.30. Having regard to the minor nature and scale of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 8.0 Recommendation

8.1. It is recommended that permission be refused.

## 9.0 Reasons and Considerations

Having regard to the layout and design of the proposed apartments, in particular the studio apartments which do not comply with the definition of a studio unit as per the Sustainable Urban Housing Design Standards for New Apartments (2018), the proposed development fails to comply with Specific Planning Policy Requirement 3 of the guidelines and the minimum size for one bed apartments, and would therefore result in a substandard development, which would be seriously injurious to the amenities of the area and property in the vicinity, would be contrary to the provisions of the Dublin City Development Plan (2015-2022) and Sustainable Urban Housing Design Standards for New Apartments (2018), and would overall be contrary to the proper planning and sustainable development of the area.

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Una O'Neill  
Senior Planning Inspector

30<sup>th</sup> October 2018