



An  
Bord  
Pleanála

## Inspector's Report ABP-301502-18.

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<b>Development</b>	Demolition of cafe and its replacement with a public house/restaurant and 50 no. apartments.
<b>Location</b>	Mount Merrion, Dublin.
<b>Planning Authority</b>	Dun Laoghaire-Rathdown.
<b>Planning Authority Reg. Ref.</b>	D17A/0951.
<b>Applicant(s)</b>	Tomose Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant with conditions.
<b>Type of Appeal</b>	Third Party against grant
<b>Appellants</b>	Donal Kavanagh Colm Daly Gerard Cosgrove Francis & Margaret Moran Mount Merrion Residents Association
<b>Observers</b>	x63 (listed inside)
<b>Date of Site Inspection</b>	22 <sup>nd</sup> August 2018.
<b>Inspector</b>	Philip Davis.

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## 1.0 Introduction

This appeal is against the decision of the planning authority to grant permission for the demolition of a café/bar/restaurant building (known as the 'Union Café' for its ground floor café) for a pub/café and 2 apartment blocks (25 units each) on a site enclosed by three urban roads in Mount Merrion – Deerpark Road, North Avenue and Wilson Road. There are five appellants including the Mount Merrion Residents Association and 63 no. observers - all are local residents objecting for a variety of reasons primarily relating to amenity and traffic, with most objections focusing on the proposed replacement bar/restaurant/function room.

A previous appeal for a mixed-use development on the site (**PL06D.247083**) was recently refused by the Board.

## 2.0 Site Location and Description

The appeal site is located within Mount Merrion, a suburban area to the south of the UCD Belfield Campus on a north-east facing hillside overlooking the city. It is an area characterised by a series mid to 20<sup>th</sup> century estates of generally large detached dwellings connected by a network of relatively wide suburban link roads on former demesne lands. There are a number of commercial buildings in the area on mid sized sites, including the appeal site - a 4 storey pub/restaurant/retail building with surface level carparking on a site enclosed by Deerpark Road to the south, North Avenue to the east, and Wilson Road to the north.

The appeal site, with an area given as some 0.46 hectares, is irregularly shaped and occupied by a four-storey building formerly used as Kielys of Mount Merrion, more recently for a mix of café/pub and retail uses, the main one is the 'Union Café'. The building has multi-level eaves and dates from the early 1950's and incorporates a large café, a public house, a wine shop, coffee shop and deli, with additional seating at first floor level. It has extensive carparking to the eastern frontage, with a low block wall and some landscaping around the boundaries. There is a retaining wall between the site and the premises to the west, a former cinema. The surface carpark accesses onto Wilson Road and Deerpark Road, with pedestrian accesses to North Avenue. The site falls in level gradually from west to east, with a more significant fall in levels south to north.

To the **west** of the site is a large commercial building (a former cinema) used for a furniture shop – this shop is now closing down and has permission for a redevelopment for mixed use commercial and residential uses. Further to the west is a car sales retail facility, some open land, and beyond this, detached dwellings facing Deerpark Road and Wilson Road. To the **east** is North Avenue, with a strip of open space opposite, with suburban houses facing towards the site further to the east, served by a minor access road parallel to North Avenue. On the **south-eastern corner** is a roundabout at the North Avenue/Deerpark Road junction. To the **north** of the site is a grassed strip and Wilson Road, with further dwellings beyond. To the **south** is Deerpark Road, with a park with children’s play area on the opposite side and extensive parkland on higher ground beyond – this park includes the high point of Mount Merrion Hill. Further **west** of the playground along Deerpark Road is a line of 2 storey retail/office buildings. To the **south-east** is the prominent Church of Saint Therese on an elevated site with a large community centre next to this (incorporating buildings that were part of the former Mount Merrion House and demesne) and a National School further south.

### 3.0 Proposed Development

The proposed development is as described in full in the site notice. I summarise the key elements as follows:

- Demolition of the existing 1593 m<sup>2</sup> pub/restaurant building.
- Construction of a 1161 m<sup>2</sup> 3-storey public house/restaurant with terraces and penthouse on upper floor.
- Construction of 2 no. 3-storey apartment buildings of 2519 m<sup>2</sup> each (25 apartments each).
- 2 levels of basement carparking off Wilson Road, with 119 car spaces, 12 no. motorbike spaces and 66 bicycle spaces.
- Ancillary works.

## 4.0 Planning Authority Decision

### 4.1. Decision

Permission granted, subject to 29 generally standard conditions.

### 4.2. Planning Authority Reports

#### 4.2.1. Planning Reports

- Noted that the site is zoned 'NC' '*To protect, provide for, and /or improve mixed use neighbourhood centre facilities*'.
- A previous application was refused on appeal by the Board.
- Noted that on the adjoining site permission was granted (also appealed) for a mixed office/residential development.
- 80 objections received.
- It is noted that the Drainage Section had concerns about the lack of information and Transportation Section considered that there is a shortfall of 24 car parking spaces in the proposal and Parks and Conservation suggested conditions.
- It is noted that the existing site does not have any significant architectural, historic, or streetscape importance.
- It is noted that the proposed density of development is 113 units per hectare.
- Concerns about some designated landscape views are noted.
- It is considered that the reduction in scale, height and massing of the proposed development is a significant improvement on that previously refused by the Board.
- The proposed apartments significantly exceed the minimum floor areas set out in the departmental Guidelines December 2015. 54% of the apartments have dual aspect.
- It is stated that the applicant proposes to comply with Part V obligations by way of transfer of five units to the Council.

- It is noted that the application includes an area of land that is owned and maintained by Dun Laoghaire County Council.

Following the submission of further information (and an additional clarification) the following points were noted:

- Additional drawings satisfied the planning authority that there were adequate separation distances between the buildings to satisfy standard requirements.
- Additional information was submitted on the operational hours of the proposed pub – it is stated that it would be normal pub/restaurant hours, with occasional extensions to 2am. This is considered to be acceptable.
- Additional information and clarification on car and bike parking was submitted – this was considered acceptable to the Transportation section.
- It is noted that the issue of the ownership of the strip of grass maintained by the Council was unresolved.
- It was concluded that with the additional information and clarifications that the proposed development was acceptable and a grant of permission was recommended with conditions.

#### 4.2.2. Other Technical Reports

**Housing Department:** A letter on file (directly to the applicant) from the Housing Department confirmed acceptance of an offer of 5 units for social housing.

**Drainage Department:** Following the submission of further information, no objection, recommends standard conditions for water and drainage, plus additional condition for the proposed 'green roof'.

**Parks and Landscape Services:** The tree survey and landscape design details are noted. A number of issues are stated to require clarification in further information.

**Architectural Division:** Notes the proximity to 'Stansted', an art deco style house on the record of protected structures. It is considered that the issue with the previous application have been addressed, but it is recommended that the additional set back storey should be omitted to reduce impact on the nearby protected structure.

**Transportation Planning.** Notes that the proposed development is likely to increase demand for car parking in the area. A total of 74 parking spaces are required for the apartments in line with Development Plan requirements – just 50 are proposed. The proposed commercial development provision of 65 spaces is considered to be in line with development requirements. Concerns are expressed at the layout of the bike parking area. Further information was requested.

**Public Lighting:** The proposals for internal lighting and wall mounted lighting (not to be taken in charge) is considered adequate. The external lighting proposal at the site entrance is considered acceptable.

#### 4.3. **Prescribed Bodies**

**Irish Water:** Requested further information.

#### 4.4. **Third Party Observations**

There are 80 separate observations on file, almost all local residents and public representatives, generally opposing the proposed development.

### 5.0 **Planning History**

A proposed four to five storey mixed use development of 15,800 m<sup>2</sup> was refused permission (**D16A/0370**), a decision subsequently upheld by the Board (**PL06D.247083**) for the following reason:

*Having regard to the sites prominent location and to the character of the area, it is considered that the proposed development, by reason of its scale, siting, layout, bulk and height, would not comprise an appropriate design response and would relate poorly to its receiving environment, seriously detracting from the area in terms of visual amenity. Furthermore, the quantum and form of retail raises concerns with regard to traffic generation. The proposed development would therefore, seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.*

In April 2016 the Board upheld the decision of the planning authority (**D15A/0121**) to grant planning permission for the demolition of the furniture store to the west of the site and its replacement with a 3-6 storey structure with four office units and 48 residential units (vehicular access via Deerpark Road)(**PL06D.245755**). This permission has not yet been implemented, although I note that the furniture store appears to be in the process of closing. An application and appeal on this site was also previously refused (**D13/A/0313**)(**PL06D.242455**) for reasons relating to the Retail Planning Guidelines, quality of design, and traffic generation.

Permission was granted in 2017 for four detached dwellings on a site on Wilson Road directly across the road from the current appeal site – **D16A/0909**).

## 6.0 Policy Context

### 6.1. Development Plan

The site is zoned in the March 2016 DLR Council Development Plan with Objective NC '*To protect, provide for and or improve mixed use neighbourhood centre facilities*'. In such areas, developments such as public houses, residential and restaurant are 'permitted in principle' (Table 8.3.6)

### 6.2. Natural Heritage Designations

The closest EU designated sites are the coastal and littoral habitats in Dublin Bay (SAC's and SPA's), just under 2 km to the north-east.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

#### Donal Kavanagh of 43 Greenfield Road

- States that he has no issue with the principle of the residential component.
- Objects to the location of the pub/restaurant in such close proximity to existing residential premises – notes that while it would have the same opening hours



of the existing facility, despite being c.35 metres closer to a number of dwellings.

- It is submitted that there would be significant overlooking of dwellings on North Avenue from the proposed terrace on the proposed public house/restaurant.
- It is argued that there would be significant light pollution – it is claimed that the existing lighting has remained on for 24 hours a day (photo attached) – the Board is requested to set conditions on such lighting if it is minded to grant permission.
- It is argued that there is significant noise and anti-social activity associated with the existing facility and that the proposed development will exacerbate this issue – it is requested that the Board if minded to grant permission places stricter limits on opening hours.
- It is argued that the proposed bar/restaurant element has substandard parking provision and this will result in on-street parking problems in the area.
- It is submitted that the proposed bronzed aluminium cladding is inappropriate for the area and does not harmonise with existing buildings and permitted buildings in the area.

#### Colm Daly and Dr. Tatsiana Daly of 50, North Avenue

- It is argued that the size and scale of the proposed development is out of scale with the area and will dwarf houses on North Avenue. It is argued that patrons in the proposed terrace would have unrestricted views into and over peoples homes on North Avenue.
- It is argued that the submitted documents understate the visual of the proposed as viewed from dwellings to the east.
- It is argued that the two outside seating areas will lead to a significant invasion of privacy and noise for residents to the east (North Avenue).
- It is argued that the proposed pub/restaurant is too close to the nearest dwellings to the east and its location will endanger users on the North Avenue/Deerpark Road roundabout.

- It is argued that it will exacerbate existing issues with late night noise and antisocial behaviour (noise logs attached).
- A number of modifications are suggested – including removing the top floor of the pub/restaurant, the removal of the first floor terrace, moving the bar/restaurant element away from North Avenue and a reduction in size and scale of the proposed development.

Gerard Cosgrove of Stansted, Greenfield Road.

- It is argued that the proposed development will have a significant impact on local property values. It is requested that the Board remove the top floor of the development.
- It is argued that the public house is of excessive size and scale for the local area.
- It is argued that the proposed roof terrace will exacerbate existing problems with noise from the upstairs balcony of the pub/restaurant.
- It is argued that the overall scale of the proposed development is excessive having regard to the historic development of the Mount Merrion area.
- It is submitted that it will have a significant impact on the overall historic value of the area, including The Lodge (the Community Centre next to the Church).
- In an attached submission, a number of additional points are raised, including the amenity impact on the permission granted for four dwellings adjoining the site on Wilson Road (D16A/0909) (plans attached). A detailed analysis is attached indicating there would be a serious loss of daylight for those permitted dwellings.

Francis & Margaret Moran of 90 The Rise.

- It is argued in some detail that the proposed development does not substantively address the previous reason for refusal by the Board (**PL06D.247083**). In particular, strong concerns are expressed at its impact on the visual amenity and character of the area by way of its overall built, its height, and its proximity to existing buildings, especially on North Avenue.

Particular concern is expressed at moving the pub/restaurant closer to North Avenue.

- It is argued that the design and cladding is out of character with the established area.
- It is submitted that the raised terrace and penthouse for the pub/restaurant will blight the neighbouring area.
- It is argued that the provision for carparking is substandard and will lead to traffic problems in the area.
- It is argued that insufficient acknowledgement has been given in the design of its proximity to the protected structure (Stansted), the national school, the Community Centre, the children's playground and the nearby shops, especially with regards traffic generation. It is noted that the Road Safety Audit was done prior to the school year.
- It is argued that the Construction Management Plan is inadequate and understates the likely impact.

#### Mount Merrion Residents Association

- The residents do not object to the principle of the apartment element. The chief concern arises from the pub/restaurant element, with the associated terraces and balconies. The submission includes two additional letters from local residents outlining specific concerns.
- It is noted that while the site is in commercial use, the overall area is overwhelmingly residential in nature. It is highlighted that several sections of the development plan address the need to address amenity impacts on all developments of this nature in mature residential areas.
- It is argued that the existing pub/restaurant has had significant ongoing impacts on the area by way of noise and light flooding and anti-social activities. It is argued that moving the unit to the east of the site will exacerbate ongoing issues.

- Particular concerns are expressed at the impact of the open terraces, by way of their proximity to North Avenue dwellings, and the potential for light and noise emissions over a very wide area in the evenings.
- It is argued that it would have been appropriate to set limits on the opening hours of the pub/restaurant. It is suggested that the type of conditions set by the Board in **PL29S.247635** (Wetherspoons in Camden Street, Dublin), **PL31.240022** (Waterford) and **PL06F.234409** are appropriate.
- It is argued that the proposed development would have a serious visual impact on the area, and the upper floors will impact on protected views over to Dublin Bay from the park.
- It is submitted that the use of aluminium faced panels are not appropriate in the area – granite is preferred. The Board is also requested to attach a condition to prevent further structures being placed on the roof.
- It is argued that the CMP has insufficient information, in particular on traffic movements generated by the works.

## 7.2. Applicant Response

- The applicant outlines the history of the site – stating that it has been a pub/dancehall/music venue since the 1950s (with a cinema beside it, the Stella). It was known at various times as The Stella, The Sportsman's Inn and Kiely's public house, now the Union Café and Kennedy's Bar (1593 square metre venue – proposed venue is 1164 sqm).
- The previous refusal by the Board for a larger proposed development is noted.
- It is noted that the objections primarily do not object to the overall massing of the proposed development, but focus on the issues of nuisance and noise, in particular from outdoor areas serving the pub/restaurant, in addition to outlining concerns about traffic and views and the surface finish of the buildings.
- The distance from the proposed penthouse terrace to the nearest dwellings on North Avenue is clarified – it varies from 44 metres between the first floor

balcony to no.50, with a distance up to nearly 77 metres for the next 9 closest dwellings.

- In response to the key argument that the upper floor would cause significant amenity impacts, it is emphasised that the proposed replacement is smaller than the existing premises, it will not be 'generally' a live music venue (unlike when it was Stella House and Sportsman's Inn). It is also stated that the applicants built and operated 55 Percy Place, in which apartments are provided above their own 'Angelina's Restaurant (with open air terrace). The latter is a restaurant bar at ground level by the Grand Canal, with apartments over (at the junction of Percy Place and Haddington Road).
- A revised plan (drw no. 619: PP17r1 and PP18r1) is submitted as an alternative – this relocates the terrace to the south of the building with flank walls used to 'blinker' it from east and west.
- A statement is enclosed from a sound engineer which addresses noise in the area. It is stated that the applicants have no intention to play music on the outdoor terraces/balconies and would be happy if this is prohibited by condition.
- A note is submitted from lighting consultants where it is indicated that low glare lighting can be used to minimise any impact. It is stated that the light complained of in the submissions has now been disconnected.
- With regard to traffic/parking, it is re-stated that it is considered that the proposed layout and quantum proposed will not result in an unacceptable level of congestion. An additional response from a traffic consultant is attached.
- It is argued that the evidence suggests that far fewer people visit the premises by car now than in the past, primarily due to drink-driving law changes.
- An additional report is attached addressing construction management issues.
- It is argued that the area is characterise by a range of different cladding materials and no specific reason has been forward by the appellants as to why the proposed bronzed cladding is inappropriate. It is submitted that a

juxtaposition of pale sandstone and the matt finish of the bronze panels with white glass punctuation will make a pleasing composition.

- It is argued that there will be no significant impact on protected views as these are already largely blocked by vegetation.
- With regard to the appeal of Mr. Cosgrave of Stansted, it is argued that the claim of diminution of value is unsubstantiated and it is noted that the houses are not built. A report is submitted arguing that there would be no impact on energy use from the proposed passive house designs it is argued that the separation distance of 22 metres is 'more than adequate'.
- The response then addresses multiple individual points raised by the appellants, generally repeating the broad arguments above, i.e., that the proposed development is entirely in accordance with the zoning designation and the historic use of the site, the pub/restaurant is smaller than that existing, and that properly managed and with appropriate controls, there is no objective evidence that there would be a serious amenity issue.
- With regard to the issue of ownership of the 'grass strip' on Wilson Road, reference is made to documents previously submitted to the planning authority.
- In addition to the response letter, a report from planning consultants lays out in detail the planning context, in particular the response by the developer to the previous Board refusal. The comments of the Planning Authority with regard to policy are highlighted. The report essentially restates the points made above in more detail.
- A report from a consultant dated June 2018 addresses the claims that the proposed development would reduce solar gain for the proposed passive houses on the site opposite on Wilson Road. It is stated that the level of overshadowing proposed is normal within urban contexts and would not significantly impact on the performance of a 'passive' energy design house.
- A response by the applicants consulting engineers attached addresses the issues raised regarding traffic. It is stated that the original assessment did use as a baseline traffic during normal school term time and it is claimed that

it included the effects of traffic generated by local schools, the church and community centre, etc. It is emphasised that the assessment did not offset traffic generated by the existing scheme, although it is claimed that this would have been justified. It is argued that the relocation of the carpark access to Wilson Road and the closure of the existing Deerpark Road access will have significant benefits to the local environment. It is further noted that DLR set a condition such that a Variable Message Signage System be provided to provide adequate warning to users as to the availability of parking.

- A response letter from Consulting Engineer sets out additional information with regard to construction noise (i.e. by setting it in compliance with the relevant British Standard), and makes a number of notes about the control of residual noise. It is noted that the client will accept a condition that music will not be played on the external terraces or balconies.
- A further engineers report addresses the issue of lighting. It is restated from the original submissions that the external lighting for security and access will have negligible effect on the surrounding areas. It is stated that glare from internal sources can be addressed through appropriate design.
- A further submission from the operators of the Café state that they log complaints but have no record of many of the complaints made in the submissions. It is denied that students are a significant element of their customers – they do not do ‘student special’ deals and it is stated that contrary to statements in one of the appellants submissions the UCD bar is currently operating. The submission addresses in some detail allegations made about noise and anti-social activities made in a number of the submissions by appellants and observers - it is denied that the events occurred in the manner described. It is stated that the bar operates on normal pub hours and has never had a late exemption and has never been open to 2am as claimed.
- The final submission is a detailed construction management plan.

### 7.3. Planning Authority Response

The planning authority refers the Board to the planners report and states that the appeal does not raise any new matters which would justify a change in attitude to the proposed development.

### 7.4. Observations

There are a total of 63 observations. I have summarised them in the table below. I would note that the primary focus of these observations are objections to the proposed development, in particular the bar/restaurant element, seeking either a refusal or additional conditions to address the following main issues:

- The impact of moving the pub/restaurant to the east side of the site, in particular the amenity impacts of noise and light spillage from the upper floor/terrace.
- The visual impact of the larger structures.
- Traffic impacts, in particular, it is argued there is insufficient parking provided.
- Many of the observations highlight what are stated to be ongoing issues with the Union Café, most notably noise, light spillage, and anti-social behaviour in the evenings, with concerns that the proposed development will exacerbate the impacts.
- Many observers also highlight traffic and parking issues in the area, and argue that the cumulative impact of the church, community centre, primary school, and playground have been understated in the submission documents.

<b>Observer</b>	<b>Key points</b>
<b>Alice Smyth</b> of 36 Greenfield Road	<ul style="list-style-type: none"><li>• Does not object to the principle of residential and pub/restaurant on the site.</li><li>• Argue that the proposed pub/restaurant with function room is of excessive size and the open air terrace is inappropriate in a suburban area.</li></ul>



	<ul style="list-style-type: none"> <li>• It will deny views to users of the park/playground.</li> <li>• It is argued that there is insufficient parking and it will cause traffic congestion.</li> <li>• Objects to the bronzed cladding for visual reasons.</li> </ul>
<b>Frances Carr</b> of 42 Wilson Road	<ul style="list-style-type: none"> <li>• Objects on the grounds of amenity impacts on Wilson Road access due to of traffic generation and parking impacts.</li> <li>• Requests that traffic not be permitted to turn left into Wilson Road from the proposed access.</li> <li>• Requests consideration of traffic calming measures and no-parking controls on Wilson Road.</li> </ul>
<b>Joan Merrigan</b> of 28 Wilson Road	<ul style="list-style-type: none"> <li>• Concerns expressed that the proposed development will escalate anti-social behaviour.</li> <li>• States that noise pollution from the existing bar is an ongoing issue.</li> <li>• It is argued that the proposed heights of the three structures are excessive.</li> </ul>
<b>T.A McKenna</b> , 60 North Avenue	<ul style="list-style-type: none"> <li>• Objects to a potentially noise bar terrace overlooking Wilson Road and North Avenue.</li> <li>• States that he has had reason to call Gardaí in the past due to excessive noise.</li> <li>• No objection to the residential element.</li> <li>• It is argued that there will be a substantial negative impact on traffic flow on Wilson Road and North Avenue.</li> <li>• Notes an ongoing issue with overspill of parking from the nearby church and argues that this will be exacerbated by the proposed development.</li> </ul>
Signed residents of Sycamore Road	<ul style="list-style-type: none"> <li>• They argue that the proposed development will increase ongoing problems with light pollution, noise pollution, and anti-social behaviour.</li> <li>• Notes the close proximity to the park and playground.</li> <li>• Concerns expressed at traffic impacts.</li> </ul>

<p><b>Adrian Peters, 29</b> The Rise.</p>	<ul style="list-style-type: none"> <li>• No objection to the residential use, but strong reservations about the bar/restaurant element.</li> <li>• It is submitted that the bar/restaurant element is being moved too close to the edge of the site.</li> <li>• Concerns are expressed about the location of the roof terrace.</li> <li>• It is argued that the bar is too large for the local area.</li> </ul>
<p><b>Nicola and Cedric Heather, 37 South Avenue</b></p>	<ul style="list-style-type: none"> <li>• It is argued that the pub/restaurant is too close to the existing dwellings on North Avenue and Wilson Road.</li> <li>• Concerns about the visibility and proximity of drinking areas from the playground.</li> <li>• It is argued that the noise from the open terrace will be excessive.</li> <li>• It is argued that light pollution from the roof and TV screens will be a distraction to traffic and impact on local residences.</li> <li>• Concerns expressed at anti-social behaviour in the area.</li> <li>• Concerns outlined about road safety and the density of the development and associated parking, especially with the proximity to the community centre.</li> <li>• It is argued that the scale and height is excessive.</li> <li>• It is submitted that the proposed bronze aluminium cladding is out of character with the area.</li> <li>• Concerns are expressed at impacts during construction.</li> </ul>
<p><b>Aidan Ryan &amp; Niamh Hegarty</b> of 8, Trees Avenue.</p>	<ul style="list-style-type: none"> <li>• Objects to the proposed development for reasons of its proximity to existing family homes on North Avenue and views from the playground.</li> <li>• Expresses concerns about the impact of noise from the terraces on the amenities of the neighbourhood.</li> </ul>
<p><b>Damien &amp; Eilish Kieran</b> of 27, The</p>	<ul style="list-style-type: none"> <li>• Welcomes the principle of the redevelopment, but expresses strong concerns about the size of the</li> </ul>

Rise	<p>proposed bar.</p> <ul style="list-style-type: none"> <li>• Also objects to the implications of the top floor function room and its possible amenity impacts.</li> </ul>
<p><b>Dr. Arthur O'Reilly</b> of 9, North Avenue</p>	<ul style="list-style-type: none"> <li>• Expresses strong concerns about the traffic implications of the proposed development, especially in combination with other traffic sources in the area such as the church and school.</li> <li>• It is suggested that it is inappropriate to permit late bar openings so close to UCD.</li> </ul>
<p><b>David Collins &amp; Deirdre O'Meara</b> of 36 Wilson Road</p>	<ul style="list-style-type: none"> <li>• It is argued that the proposed development would significantly increase local on-street parking congestion. It is noted that other similar venues, such as the Leopardstown Inn, have more parking provision.</li> <li>• It is argued that the traffic impact assessment understates impacts as it was carried out during the summer school holidays.</li> <li>• It is submitted that the construction impacts have been understated.</li> <li>• It is argued that the design and finish is inappropriate and do not match the surroundings.</li> <li>• Concerns are expressed at noise emissions from the open-air terracing and balconies.</li> <li>• It is argued that three of the apartments are not Building Regulation Part M compliant (accessible only via steps).</li> </ul>
<p><b>Susie Cronin</b> of 3, Chestnut Road</p>	<ul style="list-style-type: none"> <li>• It is argued that the design is inappropriate and out of character with the local area, in particular the choice of bronzed cladding.</li> <li>• Concerns are expressed at the traffic implications on the nearby road network.</li> <li>• It is argued that there is a serious shortfall in parking provision.</li> <li>• It is argued that the type of bar/restaurant proposed is more suitable for an urban context, not a local suburb.</li> <li>• It is argued that the open terrace will create significant</li> </ul>

	noise and disturbance issues in the area.
<b>Annette &amp; Gerard Maguire</b> of 7, Greenfield Road	<ul style="list-style-type: none"> <li>• It is argued that it represents overdevelopment and is out of scale with the character of the local context.</li> <li>• It is argued that attracting further commercial traffic represents a traffic hazard to children.</li> <li>• It is submitted that there is an overconcentration of retail in the area.</li> <li>• It would adversely affect residential amenities locally by reason of overlooking, loss of privacy and overshadowing.</li> <li>• It is submitted that it will lead to traffic congestion and overcrowding.</li> </ul>
<b>Sinead Cooney</b> of 21 Mather Road South	<ul style="list-style-type: none"> <li>• Not opposed to the principle of apartments, but considers that the design is too imposing.</li> <li>• Not against the principle of the pub/restaurant, but it is argued that the proposed venue is of excessive size and scale and will result in noise and congestion in the area.</li> <li>• It is argued that the design is inappropriate in the local context.</li> </ul>
<b>Niall &amp; Olivia Lombard</b> of 40 North Avenue	<ul style="list-style-type: none"> <li>• It is argued that the proposed development is too close to existing dwellings on North Avenue.</li> <li>• It is submitted that there is an ongoing problem with anti-social activities in the area associated with the current café/pub, and that the proposed development would exacerbate this.</li> <li>• It is submitted that there is insufficient parking provided having regard to other sources of traffic in the vicinity such as the National School.</li> <li>• It is argued that the overall scale of development is not appropriate for a suburban context.</li> </ul>
<b>John &amp; Marie Rafferty</b> of 15, North Avenue	<ul style="list-style-type: none"> <li>• It is argued that the proposed development is unsuitable for the area by way of its density and scale.</li> <li>• It is argued that it is contrary to policy RES 3 of the CDP in that it does not seek a balance between the protection</li> </ul>

	<p>of residential amenities and the established character of the area and the need for sustainable residential development.</p> <ul style="list-style-type: none"> <li>• It is argued that the pub/restaurant element is too close to the existing North Avenue dwellings.</li> <li>• It is submitted that there is a history of anti-social behaviour and noise from the existing café/bar.</li> <li>• It is argued that it will have serious traffic generation potential and will cause more congestion.</li> <li>• It is argued that the choice of cladding is out of sympathy with the area and the structure is too high.</li> <li>• Concerns are expressed at the potential for light pollution from the pub/restaurant element.</li> <li>• It is argued that the Construction Management Plan is inadequate.</li> </ul>
<p><b>Owen &amp; Amy Callan</b> of 44, North Avenue</p>	<ul style="list-style-type: none"> <li>• They do not object to the residential element. Or the principle of the commercial element.</li> <li>• Strong concerns about the location and design of the bar/restaurant element and its potential impact by way of noise and overlooking.</li> <li>• It is requested that the outdoor terrace element be redesigned or removed.</li> </ul>
<p><b>John Considine</b> of 3, Wilson Road</p>	<ul style="list-style-type: none"> <li>• Expresses strong concerns about the impact of traffic from the development and that the TTA has understated impacts. It is argued that the proposed development has insufficient parking.</li> <li>• Requests that the Board consider a condition to restrict vehicles from turning left onto Wilson Road.</li> <li>• Requests that the proposed development be required to provide traffic calming measures for Wilson Road, with double yellow line markings at the end of the road (near the North Avenue junction).</li> </ul>
<p><b>Anne Davitt and John Flood</b> of</p>	<ul style="list-style-type: none"> <li>• Express concerns about noise and light disturbance from the proposed pub/restaurant, in particular the raised terrace. It is submitted that there is a history of anti-</li> </ul>

<p>North Avenue</p>	<p>social activity associated with the existing café/bar.</p> <ul style="list-style-type: none"> <li>• It is argued that the area has insufficient road capacity for the existing level of development. It is questioned whether the DLR 'Smarter Travel' approach is suitable for an entertainment venue.</li> <li>• It is argued that the proposed aluminium finish is inappropriate for the area.</li> </ul>
<p><b>David &amp; Mairéad Burke</b> of 17 North Avenue</p>	<ul style="list-style-type: none"> <li>• It is argued that there is no change in substance from the design previously refused by the Board (<b>D16A/0370</b>) and the current proposal should be refused for the same reason.</li> <li>• It is argued that the design is out of keeping with the area.</li> <li>• It is argued that it is excessive in size and scale.</li> <li>• It is submitted that the pub/restaurant is too close to residences on North Avenue and the playground and will cause disruption.</li> <li>• It is argued that the parking and additional traffic generated by both elements is beyond local capacity.</li> <li>• It is argued that it is not a suitable location for a venue such as that proposed.</li> <li>• It is argued that the bronzed cladding is inappropriate for the area.</li> </ul>
<p><b>John Darcy</b> of 35 Wilson Road</p>	<ul style="list-style-type: none"> <li>• Concerns are expressed at the implications for Wilson Road for the additional traffic.</li> <li>• It is requested that the Board consider a condition such that no left turn be permitted from the Wilson Road access.</li> <li>• It is requested that the Board consider that traffic calming be required for Wilson Road in conjunction with the proposed development.</li> </ul>
<p><b>Mary O'Shea &amp; Anne-Marie O'Shea</b> of 11,</p>	<ul style="list-style-type: none"> <li>• It is argued that the size and scale is inappropriate for the area, and the proposed development should be refused for similar reasons to the previous appeal.</li> </ul>

<p>North Avenue</p>	<ul style="list-style-type: none"> <li>• It is argued that the cladding and colour is out of character with the area.</li> <li>• It is argued that it will encourage excess traffic to the area with consequent safety issues, especially for school children.</li> <li>• It is argued that the roads are unsuitable for the level of heavy vehicle traffic required for the construction element.</li> <li>• It is argued that the level of parking provided for the pub/restaurant element is insufficient and will lead to local overspill.</li> <li>• It is argued that there is insufficient infrastructure (e.g. school spaces) for further residential development in the area.</li> </ul>
<p><b>Orla &amp; Ronan Walsh</b> of 5, Chestnut Road</p>	<ul style="list-style-type: none"> <li>• It is argued that the proposed development is too close to nearby dwellings.</li> <li>• It is submitted that there is an ongoing noise problem with the existing venue.</li> <li>• It is submitted that there is an ongoing issue with anti-social activities from the existing venue.</li> <li>• Concerns are expressed at the safety of children attending Scoil San Treasa.</li> <li>• It is submitted that the local road network cannot take the additional traffic generated by the scale of the proposed development.</li> </ul>
<p><b>Patrick Smith</b> of 42 South Avenue</p>	<ul style="list-style-type: none"> <li>• It is argued that there is already insufficient road capacity in the area and the proposed development will exacerbate traffic problems.</li> <li>• It is argued that it represents an unacceptable safety risk to children given the proximity of the schools and playground.</li> <li>• It is submitted that the excavation of 60,000 cubic metres of material which would result in excessive heavy goods</li> </ul>

	<p>movements.</p> <ul style="list-style-type: none"> <li>• It is submitted that the height and density are excessive.</li> <li>• It is submitted that it will have a serious adverse effect on the local community by way of noise and anti-social behaviour.</li> </ul>
<p><b>Dr. Mark Mathews</b> of 1 Deerpark Road</p>	<ul style="list-style-type: none"> <li>• The observer is a local family doctor – he expresses support for local objectors.</li> <li>• It is argued that the location of the pub/restaurant element is too close to dwellings and will impact on amenities by way of light, noise and anti-social behaviour.</li> </ul>
<p><b>Noel E. Larkin</b> of 12 Mather Road North</p>	<ul style="list-style-type: none"> <li>• It is argued that the proposed development represents an overdevelopment of the site.</li> <li>• It is submitted that Wilson Road is unsuitable for the entrance.</li> <li>• It is argued that there is insufficient parking in the proposed development.</li> <li>• Concerns are expressed at the safety of children in the nearby playground</li> <li>• It is submitted that it will block views over Dublin Bay.</li> <li>• It is noted that a substantial number of new dwelling units have been permitted in the area.</li> </ul>
<p><b>David Gallagher, Roisin Ní Chonchuir &amp; Family</b> of 58 North Avenue</p>	<ul style="list-style-type: none"> <li>• It is submitted that there are ongoing issues with noise and light pollution from the existing café with noise, light spillage and anti-social behaviour.</li> <li>• It is argued that the proposed development will increase noise and other impacts due to the terrace and upper floor facilities.</li> <li>• It is argued that the type of bar proposed is unsuitable for a suburban location.</li> <li>• It is noted that the existing landscaping barrier on North Avenue provides no noise insulation.</li> </ul>
<p><b>Mary Bertelsen</b> of 62 North Avenue</p>	<ul style="list-style-type: none"> <li>• Concerns are expressed at noise from the proposed bar/restaurant. It is argued that a restaurant with no balcony access would be a better option to reduce</li> </ul>



	<p>impacts from the proposed development.</p> <ul style="list-style-type: none"> <li>• It is noted that there are ongoing issues with light pollution from a widescreen TV located outside the Union Café, and at times the outdoor lights have been left on at night.</li> <li>• It is argued the proposed development is too close to existing dwellings.</li> <li>• It is submitted that the cumulative impact of traffic from the proposed development will create serious problems in the area.</li> <li>• It is noted that there is a concentration of community uses in the immediate area – the Church and Community Centre, the National School, a tennis club and the playground, which generates significant amounts of non-local traffic.</li> <li>• It is claimed that there is a significant overspill of parking from UCD on Wilson Road.</li> <li>• It is claimed that there are problems of spill-over from parking in the church.</li> <li>• It is submitted that the proposed development is of excessive height for the area.</li> <li>• It is claimed that the developer does not have full title to the grass strip on Wilson Road.</li> </ul>
<p><b>John &amp; Maria Comer</b> of 39 Deerpark Road</p>	<ul style="list-style-type: none"> <li>• Concerns are expressed at the traffic generation from the proposed development</li> <li>• It is argued that the bar element is located too close to dwellings on North Avenue, and the scale is too large for the area.</li> <li>• It is submitted that the design of the development is not consistent with the character of the area.</li> </ul>
<p><b>Brian Doyle</b> of 38 Greenfield Road</p>	<ul style="list-style-type: none"> <li>• It is argued that there is no need for a bar/restaurant/function room in the area as the area is already well served by pubs and restaurants.</li> <li>• It is argued that the bar/restaurant element is located</li> </ul>

	<p>inappropriately.</p> <ul style="list-style-type: none"> <li>• Expresses concern at the unenclosed terrace on the upper floor of the bar/restaurant.</li> <li>• It is submitted that there are insufficient parking spaces provided.</li> <li>• It is argued that a single entrance on Wilson Road is inappropriate and will cause congestion.</li> <li>• It is argued that the cladding proposed is out of character with the area.</li> </ul>
<p><b>Mary Toibin</b> of 25 Wilson Road.</p>	<ul style="list-style-type: none"> <li>• Expresses concerns about the impact on parking locally.</li> <li>• Notes that it is located less than 40 metres from houses on North Avenue.</li> <li>• The external terraces are unnecessary and could lead to noise problems in the evening.</li> </ul>
<p><b>Susan &amp; Robert Kelly</b> of 16 Chestnut Road.</p>	<ul style="list-style-type: none"> <li>• Observation supporting the appeal of Donal Kavanagh.</li> </ul>
<p><b>Kevin &amp; Ursula Lynch</b> of 12 Deerpark Road</p>	<ul style="list-style-type: none"> <li>• It is argued that the building is of excessive size and scale for the area and that the Visual Impact Assessment Report understates the true impact.</li> <li>• Argues that the terracing and outside seating area will have a serious impact on the closest dwellings and that the bar/restaurant is too close to dwellings on North Avenue.</li> <li>• It is argued that there are ongoing problems with noise and anti-social behaviour associated with the Union Café.</li> <li>• It is argued that the proposed development will make local traffic congestion problems worse.</li> <li>• It is suggested that the Board could improve the proposed development by setting conditions such that the pub/restaurant is reduced in height by one floor, and the first floor terrace and top floor outside seating area are deleted, in addition to moving the building closer to its current location.</li> </ul>

<p><b>Dónall King</b> of Deerpark Road</p>	<ul style="list-style-type: none"> <li>• It is submitted that the proposed development is out of character with the area.</li> <li>• Concerns are expressed at the impact on traffic flow and safety in the area.</li> </ul>
<p><b>Bernadette Doheny</b> of 30 Thornhill Road</p>	<ul style="list-style-type: none"> <li>• Submits that the proposed development is unsuitable for a residential area.</li> <li>• It will generate more noise pollution in the area.</li> <li>• It will make existing parking problems worse.</li> </ul>
<p><b>Margaret Barber</b> of 43 Greenfield Road</p>	<ul style="list-style-type: none"> <li>• It is argued that it is too close to existing dwellings.</li> <li>• It is argued that the upper floor bar/function room terrace will result in light pollution impacting on local amenities (photo attached indicating existing problem).</li> <li>• It is argued it will make existing noise problems from the Union Café worse.</li> </ul>
<p><b>Alan and Breda Flynn</b> of 101 The Rise</p>	<ul style="list-style-type: none"> <li>• Argues that the new development with its terraces is an invasion of the privacy of nearby residents.</li> <li>• Submits that there are ongoing issues with noise and anti-social activity from the Union Café.</li> <li>• Expresses concerns about child safety and the difficulty in getting parking in the area.</li> </ul>
<p><b>James &amp; Breda Nix</b> of 27, Deerpark Road</p>	<ul style="list-style-type: none"> <li>• It is argued that the proposed development will impact on local amenities and the quality of life in the area.</li> <li>• It is argued that traffic issues in the area are serious and the proposed development will significantly exacerbate them.</li> <li>• It is argued that there is insufficient parking in the area.</li> <li>• It is argued that it will create a traffic hazard for children in the area.</li> <li>• It is submitted that the development is too large and too close to nearby dwellings.</li> <li>• It is concluded that a large bar/function room is inappropriate for a predominantly residential area.</li> </ul>
<p><b>Cllr. Liam</b></p>	<ul style="list-style-type: none"> <li>• Expresses concern at the proposed location of the</li> </ul>

<p><b>Dockery</b></p>	<p>bar/function room so close to residential properties.</p> <ul style="list-style-type: none"> <li>• Submits that the design is not in harmony with the local environment.</li> </ul>
<p><b>Shane Ross T.D.</b></p>	<ul style="list-style-type: none"> <li>• Expresses concern at the proposed location of the bar/restaurant element so close to residences.</li> <li>• Expresses concern at the reduction in the number of carparking spaces with the potential for creating parking/traffic problems in the area.</li> <li>• Notes the reduction in the width of footpaths in the area, and expresses concern at the impact on accessibility for pedestrians.</li> <li>• Acknowledges the value of a development such as this to the community but states that he considers it to be inappropriate in this particular location.</li> </ul>
<p><b>Michael Regan/Mary Purcell</b> of 38, The Rise &amp; <b>Kevin Cronin &amp; Gabrielle Colleran</b> of 23 Sycamore Road</p>	<ul style="list-style-type: none"> <li>• Concerned at the closeness of the pub to residential areas, and the open terrace areas directly across from a children's playground and park.</li> <li>• Concerned at the lack of parking and the broader implications for traffic circulation in the wider area.</li> <li>• Expresses concerns regarding the appropriateness of a public house on the proposed scale within a residential area.</li> </ul>
<p><b>Hilary Callanan</b> of 52 North Avenue</p>	<ul style="list-style-type: none"> <li>• Objects on the grounds that the proposed bar/café is to be moved too close to her family home (directly opposite to the east).</li> <li>• Sets out a details of a number of incidents in the recent past where it is claimed the existing premises has caused serious noise and disturbance issues.</li> <li>• It is disputed that the conditions set by the planning authority on noise control would have any meaningful impact.</li> <li>• It is noted that there is no screening between the site and the observers dwelling.</li> <li>• It is argued that the proposed upper floor terrace will be a</li> </ul>

	<p>significant source of noise and disturbance.</p> <ul style="list-style-type: none"> <li>• It is argued that there will be significant overlooking of their property from the terrace and the restaurant balcony, in addition to the fully glazed windows facing east.</li> <li>• It is submitted that the from the experience of local residents the noise report with the application is not a realistic appraisal of the site and area and significantly understates existing problems.</li> <li>• It is argued that the overall development is too high for the context.</li> </ul>
<p><b>Eileen &amp; Sean Quinn</b> of 18 Deerpark Road.</p>	<ul style="list-style-type: none"> <li>• It is submitted that the pub/function room is too close to the road and the dwellings opposite.</li> <li>• The proposed cladding is out of character with the area and will be too shiny and will disturb motorists.</li> <li>• The open balconies will overlook nearby houses and the lights and noise will result in nuisance.</li> <li>• It will result in excessive night time activities.</li> <li>• There appears to be insufficient parking for the level of activity proposed.</li> </ul>
<p><b>Maura Fahey</b> of 4, Cherrygarth.</p>	<ul style="list-style-type: none"> <li>• It is argued that the proposed pub/restaurant/function room is too close to existing residential dwellings on North Avenue.</li> <li>• Sets out details of past issues with the existing venue, and requests that the Board if it grants permission sets strict limits on opening times.</li> <li>• Expresses concern at the limited number of parking spaces provided.</li> <li>• It is submitted that the proposed cladding is out of character with the area, in particular the church and the permitted development on the adjoining Flanagan's site.</li> </ul>
<p><b>Frank Vaughan</b> of 10, Deerpark Road</p>	<ul style="list-style-type: none"> <li>• It is argued that the height and bulk of the proposed building is out of character with the area.</li> <li>• It is noted that adjoining roads are very narrow - it is</li> </ul>

	<p>argued that there is insufficient road capacity for the proposed development and that the increased traffic volumes will result in health issues.</p> <ul style="list-style-type: none"> <li>• It is argued that the proposed development will ultimately lead to a requirement for local road upgrades.</li> <li>• The lack of detail in the construction management plan is noted as an issue of concern.</li> </ul>
<p><b>Sean Sanders</b> of 52 North Avenue</p>	<ul style="list-style-type: none"> <li>• No objection to the residential element.</li> <li>• Strong concerns about the ‘super-pub’ type proposals, in particular from loss of privacy and other amenity impacts from the upper floor terrace and function room.</li> </ul>
<p><b>Clare &amp; Charles Kelly</b> of The Rise.</p>	<ul style="list-style-type: none"> <li>• Accepts the use of the site for housing.</li> <li>• Expresses concerns at the volumes of traffic to be attracted.</li> <li>• Strong objections to the hostelry, outlines a history of issue with noise and light pollution from the Union Café in addition to anti-social activity.</li> <li>• Objects to the proximity of the new pub to the dwellings on North Avenue to the east.</li> </ul>
<p><b>Dermot O’Hara</b> of 12, Cypress Road</p>	<ul style="list-style-type: none"> <li>• Expresses concerns about safety of the road due to the increase of traffic that the proposed development would generate and questions the assumptions in the Transport Assessment Plan submitted with the original application – most notably the dates chosen for surveys in the area.</li> <li>• It is submitted that the parking provision is substandard.</li> <li>• Concerns are outlined on the construction impacts on the area, especially on local children.</li> </ul>
<p><b>Jim Murphy &amp; Jackie Gilroy</b> of 25, Cherrygarth.</p>	<ul style="list-style-type: none"> <li>• States that there is an ongoing issue with noise from the Union Café.</li> <li>• Concerns are expressed that the additional height and the provision of balconies will spread noise over a wider area.</li> <li>• Notes the proximity of the playground and questions whether the local junction can cope with the additional</li> </ul>

	<p>traffic.</p> <ul style="list-style-type: none"> <li>Notes the number of large developments with permission in the vicinity and expresses concerns at the combined impacts.</li> </ul>
<p><b>Paul Colligan</b> of 35 Greenfield Road and <b>Martin Kelly</b> of 22 Greenfield Road.</p>	<ul style="list-style-type: none"> <li>Argues that the proposed development is out of scale and proportion with the nature of the area.</li> <li>Concern is expressed at the impact of additional traffic in the area.</li> <li>Concerns are expressed at the potential for anti-social behaviour associated with the proposed development.</li> <li>Argues that it will result in a devaluation of local residential property.</li> </ul>
<p><b>Paul Fogarty</b> of 37 Deerpark Road</p>	<ul style="list-style-type: none"> <li>Expresses strong concern at the impact of the proposed development on local parking – argues that there is a shortfall of parking spaces proposed and this will, in combination with other permitted developments, result in significant traffic problems (photographs attached).</li> </ul>
<p><b>Tom &amp; Mary Martin</b> of 30, Cherrygarth, and <b>Michael &amp; Breda Walton</b> of 16 Cherrygarth.</p>	<ul style="list-style-type: none"> <li>Submits that the proposed pub/restaurant element is too close to existing houses on North Avenue.</li> <li>Argues that it is out of scale for the area and will attract large numbers of people into a quiet residential neighbourhood.</li> <li>Submits that there is an existing noise and light pollution issue from the existing Union Cafe.</li> <li>Argues that it will have a significant impact on the amenities of Deer Park.</li> </ul>
<p><b>Joan &amp; Clara O'Neill</b> of 31, Cherrygarth.</p>	<ul style="list-style-type: none"> <li>Submits that the pub element is of excessive scale and size for the context and will result in severe traffic and parking congestion.</li> <li>It is argued that the pub element is too close to the dwellings on North Avenue and will have negative impacts due to light and noise pollution.</li> <li>Concerns expressed regarding the impacts on the amenities of Deer Park.</li> </ul>

<p><b>Deirdre Donnelly,</b> c/o County Hall, Dun Laoghaire</p>	<ul style="list-style-type: none"> <li>• Outlines concerns about the impact of the existing Union Café and the potential impact of moving it closer to North Avenue.</li> <li>• Argues that there is insufficient parking provided within the proposed development for the apartments and the pub/restaurant.</li> <li>• It is argued that it will generate significant traffic onto the existing junctions at Wilson Road and North Avenue.</li> <li>• It is stated that it is her understanding that the applicant may not have control over part of the site – the green strip along Wilson Road.</li> </ul>
<p><b>Ashling Kennedy</b> of 43 North Avenue</p>	<ul style="list-style-type: none"> <li>• Requests that the pub/restaurant element be set further back from the restaurant to reduce its intrusiveness on the area. States that noise is an ongoing issue with the Union Café.</li> <li>• Argues that the provision of parking quantum is too low and will result in overspill parking in the area.</li> <li>• Submits that it will interfere with views over Dublin Bay from Deer Park.</li> </ul>
<p><b>Deirdre Davys &amp; others – 32D</b> Greystones, Stillorgan Road</p>	<ul style="list-style-type: none"> <li>• Argues that the proposed development is inappropriate in a residential area.</li> <li>• Raises concerns about night time noise.</li> <li>• States that there is an ongoing light issue with a big screen on the upper floor of the Union Café.</li> <li>• Raises concerns about parking overspill in the area.</li> <li>• Requests that the final cladding should be appropriate to the local character of the area.</li> </ul>
<p><b>Nora Costello &amp; David Walsh</b> of 60 Deerpark Road</p>	<ul style="list-style-type: none"> <li>• It is argued (photographs attached with submission), that there is an ongoing serious problem in the area with parking congestion and that the proposed development, in particular with its basement parking provision, will exacerbate this to an unacceptable extent.</li> <li>• It is noted that the church carpark will not be available for night-time overflow.</li> </ul>



	<ul style="list-style-type: none"> <li>It is argued that the proposed development is substandard in respect of Development Plan standards for parking.</li> </ul>
<p><b>Prof. Pat Guiry &amp; Geraldine Guiry</b> of 51 Deerpark Road</p>	<ul style="list-style-type: none"> <li>It is argued that the provision of a balcony/terrace will cause serious noise issues at night from operation of the bar/restaurant, with particular regard to moving the bar closer to North Avenue.</li> <li>It is argued that it will obstruct a protected view from the Park (Table 4.1.1 of the DLR Development Plan).</li> <li>It is argued that the bronzed cladding is out of character with the area.</li> <li>It is submitted that the height, density and overall size is out of character with the area and excessive – requests that one storey of the apartment building be removed to protect the view.</li> <li>It is argued that it will generate excessive levels of traffic – with particular regard to the proximity to the playground.</li> <li>It is argued that there is insufficient parking provided.</li> <li>It is argued that it is inappropriate to have a bar so close to a playground.</li> </ul>
<p><b>Graham Mullock</b> – Chair, <b>Scoil San Treasa Parents Association.</b></p>	<ul style="list-style-type: none"> <li>Raises strong concerns about the generation of additional traffic so close to the school.</li> <li>Concerns expressed at the public hazard implications of the construction activities so close to the school.</li> <li>Notes the proximity to the playground, which is used by many pupils of the school.</li> </ul>
<p><b>Desmond &amp; Eileen Solan</b> of 6, Deerpark Road and <b>Sean &amp; Maria Kelly</b> of 2, Deerpark Road</p>	<ul style="list-style-type: none"> <li>It is argued that by way of its location, size and scale, the proposed development would have an unacceptable impact on adjoining properties.</li> <li>It is submitted that the design is out of character with the local context.</li> <li>It is argued that having regard to the cumulative impacts of other developments in the area, ongoing and permitted, that it will cause congestion and create a hazard in the area. It is noted that the Road Safety Audit</li> </ul>

	<p>submitted was based on a survey carried out before local schools had opened for the new term.</p> <ul style="list-style-type: none"> <li>• It is argued that the design is urban in scale and form and appearance, and inappropriate for a generally suburban area.</li> <li>• It is argued that combining the public house use with residential use on the site is inappropriate – ongoing issues with light pollution from the Union Café are highlighted.</li> <li>• A number of attachments from googlemaps are attached in support for an argument that there are better precedents elsewhere for this type of redevelopment.</li> <li>• Concerns are raised by the applicant’s statements that only small vans would be used for deliveries.</li> <li>• It is argued that the application does not deal adequately with construction impact issues.</li> </ul>
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## 7.5. Further Responses

In response to the applicant’s response letter, the following further responses were submitted to the Board:

### **Donal Kavanagh of 43 Greenfield Road**

- With regard to the history of the site referred to in the applicant’s letter, it is noted that the dancehall/music venue element of the former Sportsmans Inn closed in the early 1970’s because of anti-social behaviour, and the cinema closed in 1976. It is argued that the problems raised by residents are more recent in origin.
- It is argued that the stated floor area is misleading, as it does not include the terrace areas.
- Notes that the submission does not rule out the use of the premises for live music.
- It is argued that the other venues referred to in the submission are located in urban, not suburban locations.

- Restates concerns about the proximity of the upper floors of the bar/restaurant and first floor bedrooms of dwellings on North Avenue.
- Notes that the developer also owns the adjoining Flanagans site.

#### **Gerard Cosgrove of Stansted, Greenfield Road**

- The size of the pub/restaurant is emphasised, and it is stated that the upper floor terraces are the key problem.
- It is argued that the applicants submission on the impact on the permitted passive homes on Wilson Road has not been properly assessed, it is based solely on assertions by the consultant.
- It is restated that the consultant involved in the noise assessment has a conflict of interest having previously been retained by the appellant. A copy is submitted of a report carried out in 2009 in relation to an objection to the publican's license renewal application.
- It is restated that the proposed development is inappropriate for such a low-density area.

#### **Francis & Margaret Moran of 90, The Rise.**

- It is argued that the applicant's submission does not address the issue of the relative levels difference between the site and North Avenue/Wilson Road.
- It is argued that the true floor space of the proposed bar/restaurant is 1355 sqm, when the balcony, and terrace is included.
- It is argued that the response does not address the closeness of the proposed bar/restaurant to residential properties – it is submitted that a reduced scale variation on the previous application (in which the apartments were over the bar/restaurant) would have fewer amenity impacts.
- It is argued that the plans submitted do not adequately indicate the real scale of the building in relation to the immediate surroundings.
- Concerns are expressed that the proposed cladding would have limited life expectancy compared to more 'natural' options.

- It is noted that no plans show the relationship with the permitted development on the Flanagan's site.
- It is highlighted that the proposed parking level is substandard with regard to Development Plan requirements.
- A number of detail issues with the Construction Management Plan are addressed, it is argued that the number of truck movements would be substantially higher.

### **Mount Merrion Residents Association**

- It is submitted that the response by the applicant does not adequately address the core concerns raised previously.
- It is noted that as a zoned Neighbourhood Centre, policy as set out in section 3.2.2.2 of the Plan is that developments should be '*subject to protection of local amenities*'. It is argued that the exposed nature of the proposed development, significantly closer to residential properties on North Avenue and Wilson Road, is contrary to this objective.
- With regard to the points made by the applicant regarding changing patterns of use of such venues, it is argued that a key change, which has been reflected in increasing concerns by locals about the venue, is the increasing use of outdoor areas for drinking.
- It is argued that the reduction in floorspace is not relevant in terms of external amenity impacts, and that in real terms the proposed development is as substantial in terms of useable area.
- It is acknowledged that there is a student bar in Belfield, although the student union bar is gone, but it is noted that there has been a huge increase in the resident student population on campus, as provided under permission PL06D.TA0001.
- It is stated that the comparison with other venues such as 'Angelinas' is not valid as the nature of the areas are very different – it is contended that the Ballsbridge site is more general city centre and the units are apartments, rather than the long established family houses of the area around the appeal site.

- With regard to the above point, it is argued that the ambient noise levels in the area would be substantially lower than in the areas where the applicant's other venues are located, so there is a greater potential for disturbance.
- It is argued that it is not considered that the revised plans submitted would satisfy the concerns of residents.
- The statements on lighting are acknowledged, but concerns are expressed at previous bad practices reasserting themselves in the future.
- It is argued that the proposed finish on the adjoining property, Flanagans – of limestone, is superior in quality and requests that this be used as an alternative.
- The clarification of the construction management issues is welcomed, but the Board is requested to consider a number of specific conditions such as the provision of a wheel was and dust monitoring, the use of chemical fracturing for rock breaking, and that piling be bored or augered to reduce noise and vibration.
- Their fundamental objection to the design as submitted is restated.

**Colm & Dr. Tatsiana Daly of 50 Merrion Avenue**

- It is submitted that the applicants have (contrary to what was stated in the applicant's response) taken no action about complaints about noise. It is stated that as recently as Friday June 30<sup>th</sup>, 2018 there was a late night private function in the first-floor room, with 'dozens' of people standing outside on the first floor balcony. It is noted that the Union Café website advertises its availability for functions.
- It is stated that since the initial objection to the appeal, they have had cause to make two more noise complaints to DLRCC (copies attached).
- It is noted that while the developer is not applying to play music on the outdoor terraces/balconies, music can still be played indoors.
- With regard to the point made by the applicant that a public house has existed on the site for many years, it is claimed that late night functions on the upper

floor of the premises is a more recent use – previously such functions were in the main ground floor lounge.

- With regard to the decrease in floorspace, it is stated that a substantial part of the current premises is no longer in public use, therefore it actually represents a substantial increase in size (this appears to be in reference to the first and second floors of the existing building).
- With regard to the proximity of the function room to the proposed new apartments, it is argued that the design has faced the noisiest parts of the proposed development away from these apartments, towards North Avenue.
- It is argued that the statement that fewer customers now drive to the bar/restaurant is incorrect, as the existing carpark is full most evenings.

It is requested that the Board:

- Remove the top floor function room.
- Remove the east facing balcony
- And/or reduce the size and scale of the pub/restaurant element and move it closer to the two proposed apartment blocks.

## 8.0 Assessment

Having inspected the site and reviewed the file documents, I consider that the appeal can be assessed under the following general headings:

- **Legal issues**
- **General overview of the site context**
- **Principle of development**
  - *Zoning designation*
  - *Other relevant policy issues*
  - *Planning history.*
- **Design and layout issues**
  - *Visual impacts*
  - *Views and prospects*
- **Amenity**
  - *Internal amenity*

- *Noise*
- *Light*
- *Overlooking*
- *Overshadowing*
- *Anti-social behaviour*
- **Traffic**
  - *Access issues*
  - *Parking provision*
  - *Traffic safety*
- **Construction issues**
- **Flooding**
- **Cultural heritage**
- **Appropriate Assessment**
- **EIAR**
- **Other issues**
- **Concluding comments**

### 8.1. **Legal issues**

At the northern side of the site is a grass strip between the boundary and the edge of pavement. There is some dispute as to the precise ownership of this land – the applicant claims to have title, but there is some ambiguity in the submitted documentation. Notwithstanding this, and having regard to the provisions of subsection 34(13) of the Act as amended:

*‘A person shall not be entitled solely by reason of a permission under this section to carry out any development’*

I do not consider that any possible ambiguity over the full title precludes the Board from assessing this appeal and coming to a final decision.

### 8.2. **General overview of the site context**

The appeal site is in the heart of the suburb of Mount Merrion (formerly also called Callary) at the edge of a distinct hill overlooking Dublin Bay. The area was formerly small demesne lands which developed rapidly in the immediate post-War years. The site, and the lands immediately west and to the south-west, appear to have been laid

out specifically to be the neighbourhood core of the rapidly developing low density suburbs surrounding it. Although a number of roads in the area date to the 19<sup>th</sup> Century at least, the overall pattern of development appears to have been laid out mostly in the late 1940's and 1950's. The public house, along with the adjoining cinema, apparently date to the early 1950's, while St. Theresa's Church was built in 1956 and is therefore largely contemporary with the development of the area as a suburb of Dublin. The line of shops along Deerpark Road appear to be a little older, perhaps dating to the 1930's. The Park was part of the demesne for Mount Merrion House – the core of which is subsumed within the nearby community centre. Deerpark Road existed as an access to the main house in the 19<sup>th</sup> Century, but all other roads in the vicinity appear to have a 20<sup>th</sup> Century origin. The line of trees on North Avenue opposite the site appear to have been part of the formal gardens of Mount Merrion House.

The top of Mount Merrion Hill is within the park, with the appeal site on the north-east facing side of the hillside. Unfortunately, the development of the area never really took advantage of the fine aspects of the area, so there are few clear views over the bay – one exception is a partial view from the playground over the carpark of the site. The overall layout of the area is quite haphazard and appears to have developed according to standard private developer's layouts on individual land parcels as they became available. Although there are several fine buildings in the area, most notably the Church, the general architecture is typical of the period, without many distinguishing features. Most buildings are finished in render and brick, although the area is very leafy with many fine trees.

The Neighbourhood Centre is somewhat unusual, with entertainment having apparently featured as more important than shopping in its original development. The most prominent structure is the former Stella Cinema, now a furniture shop with permission for apartments and some retail. There is a car sales outlet next to this. The line of retail outlets are all very small units, with a moderate but good mix of local shops, including a newsagent, butchers, pharmacy, beauty salon and barbers, and a restaurant. These are served with frontage carparking.

The appeal site is a very large neighbourhood bar/restaurant, which has gone through a number of guises in its 60-70 years or so of life. It has been a large pub, a music venue, and more latterly broken up into somewhat smaller units. The largest



part is the ground floor Union Café. To the rear is a smaller traditional bar (although they appear to operate as the same unit). There are three smaller retail units at the southern lobby to the Café, including a small wine shop and a sandwich shop. The upper floors do not appear to be regularly open and seem to operate as an overflow to the café and function room.

The main building is on the western side of the site, next to a low retaining wall between it and the former Cinema – the cinema presents a largely blank side elevation to the site. The site slopes distinctly down to the north and to the east. Most of the remainder of the site is carparking, which appears to be well used. There is a road entrance (this appears the main pedestrian entrance) on Deerpark Road, with another service entrance on Wilson Road.

Outside of the neighbourhood zoned area, the site immediately adjoins residential areas to the south on Wilson Road – opposite the site is the large rear garden of ‘Stansted’, a protected structure, an art deco style house apparently dating from the 1930’s. This site has planning permission for four dwellings facing the appeal site. To the east of the site is North Avenue, with an open space belt with mature trees and shrubs immediately opposite, and a service road with a line of large dwellings facing towards the site. On the southern side, on rising levels towards Mount Merrion Hill, is a playground. This playground is well landscaped with mature trees with woodland behind, as is the church.

Almost all appellants and observers make much of the suburban context of the site, while the applicants note the long established history of the pub/café/venue and its neighbouring area. Various submissions contrast the nature of the location with other similar developments by the applicant, arguing that they are mostly within urban areas. The applicants highlight a development at 50-58 Percy Place, near the junction with Haddington Road, as an example of a similar successful mixed use development they have been involved in.

The ‘Percy Place scheme is an exemplary example of high density mixed use development. It is on an attractive site between Percy Place and the Grand Canal. The development is a four storey modern building with a restaurant and deli on the ground floor, with one element facing Percy Place in commercial (office) use, the rest is apartments over the restaurant (a roof terrace is available to the apartments). The

restaurant has an external patio next to the canal facing Herbert Place to the north, with its main entrance on Percy Place. The site has three zoning designations – ‘Green Buffer’ along the canal, ‘Existing residential’ and ‘District Centre’. It is at the edge of the busy commercial centre of Upper Baggot Street and the surrounding residential areas. While the appellants have argued that this site is ‘urban’ in nature, I would consider it quite similar in planning terms to Mount Merrion, as it has a long term history of mixed use, a not dissimilar mix of zoning designations, and there are many dwellings (apartments and houses) in close proximity – indeed, much closer proximity to busy restaurants and bars than in Mount Merrion. I estimate that the separation distance between the open patio and the terrace on Herbert Place across the canal to be around 55 metres – this terrace is a mix of commercial and residential uses typical of the early Georgian/late Victorian transitional areas in this part of Dublin.

I would however note with regard to the Angelinas development that the operation is primarily a restaurant and a wine bar, and does not have a function room element. Condition no. 4 on its permission (3639/07) states that it shall have a maximum capacity of 150 persons and shall not be used as a public house or a nightclub, or a functions venue. The use of the restaurant by members of the public is set for between 9am and 0100 hours on the following morning (this decision was appealed by both first and third parties, but the appeal was withdrawn). I further note that the applicant sought permission to change the restaurant at ground floor to office use, but this was refused on appeal by the Board, which decided that this would result in an excess of office space in the development (**PL29S.227844**).

As with all such proposed developments, this decision should be made on its own merits, but I would note that while the site is within a mature suburban area, it is within an area with a very long history of associated uses, and the separation distances are not unusual for similar, albeit more urban areas.

As a final point, I would note that while I will assess the entire proposed development as submitted, it is clear from the submissions that the issue of most contention is the relocation of the bar/restaurant closer to the dwellings on North Avenue and, in particular, the provision of the raised terrace and open area on the upper floors. In terms of amenity impact, this is certainly the key issue in this appeal.

### 8.3. Principle of development

#### 8.3.1. Zoning Designation and policy

The appeal site is zoned objective NC, '*to protect, provide for, and or improve mixed use neighbourhood centre facilities*'. There are no specific area objectives relating to this site. This zoning is shared with the adjoining former cinema, the car sales area and the terrace of retail/offices on Deerpark Road. The surrounding areas are either zoned Objective F '*to preserve and provide for open space with ancillary active recreational amenities*' (the park and playground, the landscaped strip on North Avenue, and the grassed area north of the former cinema), or is otherwise zoned Objective A '*To protect and or improve residential amenity*'. There are two protected structures in the vicinity, the 1930's house 'Stansted', to the north, and the remains of Mount Merrion House, now part of the community centre, to the south-east.

The Retail Hierarchy in Table 3.2.1 of the Plan does not list Mount Merrion, but it is implied that it is an 'Established Neighbourhood Centre', where the overall strategy is to '*promote mixed-use potential of neighbourhood centres as appropriate, subject to protection of local amenities*'. Limited incremental growth in retail floorspace in response to population levels is permitted. In policy RET6: Neighbourhood Centres;, it states that:

*It is Council policy to encourage the provision of an appropriate mix, range and type of uses – including retail and retail services - in areas zoned objective 'NC' subject to the protection of the residential amenities of the surrounding area.*

*The function of Neighbourhood Centres is to provide a range of convenient and easily accessible retail outlets and services within walking distance for the local catchment population. The Council considers that, subject to the protection of residential amenities, a number of the larger neighbourhood centres are capable of being promoted as local mixed-use nodes accommodating a range of uses beyond simply retailing or retail services. The introduction of residential and a higher level of commercial office activity, for example, could 'sit' quite comfortably in many neighbourhood centre locations without detriment to local amenity. The Zoning objective for 'NC' (Refer to Table 8.3.6 in Chapter 8.3) has consequently been*

*amended to facilitate a more diverse range of uses than has been the case heretofore in previous Development Plans.*

### 8.3.2. *Other relevant policies*

The residential element of the proposed development is subject to general policy and design guidelines as set out in DoHPLG policies **Sustainable Residential Development in Urban Areas** 2009; **Design Standards for New Apartments, Guidelines for Planning Authorities** 2018; **Urban Design Manual – A best Practice Guide** 2009; **Quality Housing for Sustainable Communities** 2007; **Design Manual for Urban Roads and Streets** 2013 and **National Climate Change Adaption Framework – Building Resilience to Climate Change** 2013. Policy on density is set out in RES3 of the Development Plan (reflecting the above policy documents). Subsection 2.1.3 (iii) sets out objectives for planning for sustainable communities (I note that the 2018 apartment design standards were published after the adoption of the development plan).

The development of high density apartments on this site, which is well located within the city and served by a local bus service, in addition to being in close proximity to the QBC on Stillorgan Road is in line with national policy as set out in the 2009 Guidelines and is (as part of a mixed use development) consistent with the zoning designation. I will address the design of the buildings in more detail below, but I would generally consider that they are in accordance with the 2018 Guidelines, and I note that in an area of generally large detached and semi-detached dwellings the apartments would add much needed variety to the local housing stock. I would anticipate that they would likely be attractive to long time local residents who wish to trade down in size after raising families but remain in the area, in addition to others seeking an apartment in a well located area close to amenities. It is indicated on file that an agreement has been reached with regard to a number of apartments being used for social and affordable housing under Part V.

In all other respects, I consider the overall principle of the development to be generally in accordance with national, regional and development plan policies and objectives.

### 8.3.3. *Planning history*

A previous application on the site for a development described as 'construction of a four to five storey mixed use building of 15,800 square metres gross floor space, over a one to three level basement (from Deerpark Road datum). The building will have parking for retail customers (113 cars) at Level -3, one retail unit (1,300 square metres), one service yard and ancillary facilities, one gymnasium (350 square metres) and one café (265 square metres) at Level -2, three further retail units (totalling 450 square metres), car parking for residents (72 cars, 46 bicycle spaces) and an open public terrace at Level -1, one restaurant (410 square metres), one pub (200 square metres), and two courtyards with a play area at Level 0 (1,040 square metres)' was refused on appeal (**PL06D.247083**) for the following reason:

*Having regard to the sites prominent location and to the character of the area, it is considered that the proposed development, by reason of its scale, siting, layout, bulk and height, would not comprise an appropriate design response and would relate poorly to its receiving environment, seriously detracting from the area in terms of visual amenity. Furthermore, the quantum and form of retail raises concerns with regard to traffic generation. The proposed development would therefore, seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.*

The current proposed development is for 5242 sqm residential with 1164 sqm commercial development, and no retail, so is in effect for a development about half the total floorspace, and in three smaller units rather than one large block.

I further note that the Board recently on appeal granted permission for a large redevelopment of the adjoining cinema site (following an earlier refusal for a large retail development) of a development of 3-6 storey height with four office units and 48 apartments (**PL06D.245755**).

The appeal site was developed as a pub pre-1963 and there are no indications of previous applications or appeals of relevance on the site, but clearly the use of the site as a bar/restaurant/café/function room with minor retail use is well established. I would note that this does not imply that all individual elements of the building, such as open terraces, have an established use as clearly the acceptability in planning terms of different design features changes over time.

I do not consider that the permission granted on the adjoining site necessarily sets a precedent for a similar scaled development on the current appeal site, but I would note that this does establish a general pattern of significantly higher density development within this neighbourhood centre with an emphasis on residential use over large scale retail.

With regard to other similar developments, I note the helpful comments by the agent for the Mount Merrion Residents Association of similar developments in recent decisions by the Board and has suggested that the type of conditions set by the Board in **PL29S.247635** (Wetherspoons in Camden Street, Dublin), **PL31.240022** (Waterford) and **PL06F.234409** (Castleknock) are appropriate. I would assume that in relation to **PL29S.247635** the appellant refers to conditions 12, 14 and 15, condition 3 for **PL31.240022**; and conditions 4 and 5 for the Castleknock development. I would indeed highlight the conditions for the Wetherspoons in Camden Street as particularly applicable.

#### 8.4. **Design and Layout issues**

The urban landscape qualities of the area are very mixed – as I noted above the site and environs occupy what was once a prominent hill overlooking Dublin Bay, but the haphazard nature of development over the years ensures that this can only be appreciated from a very limited number of public places – one of which would be the upper floors of the existing (and proposed) development. The Development Plan identifies one view for protection – (see Policy LHB6), but this is largely obscured in the summer months by vegetation. This view is from next to the playground, looking across the eastern part of the site over to the Bay.

The immediate area is not of particular architectural or aesthetic value, although its mature nature has created a high level of amenity. The protected structure to the north, an art deco dwelling, seems to have been designated more for its unusual style in Ireland rather than its townscape importance as it is difficult to see from outside the site. The former Mount Merrion House is nearby and partially intact, but only visible from close by as it has been surrounded by other developments. The 1950's Church is of good quality for its period, with an attractive spire and good quality granite finish, but is otherwise not of particular value – it is not listed within the NIAH. Other prominent buildings in the wider area can best be described as

nondescript. The urban form in the area is functional and suburban with render and red brick the primary materials.

#### 8.4.1. Visual impacts

The proposed development takes the general height and proportions set by the permitted development on the former cinema site and extends it for the two apartment buildings, stepping down significantly for the smaller bar/restaurant. The visual impact is however exacerbated by the drop down in levels from west to east and north to south. The applicant has submitted visualisations which are, I would consider, a reasonably accurate assessment of the likely impact on the local urban landscape.

The design of the structures is generally contemporary in form and proportions, with a cladding of glass and bronzed aluminium, the latter in particular the subject of many objections. It is noted that the permitted development to the west is primarily clad in limestone and a number of appellants and observers have argued that a similar stone cladding would be more appropriate.

As so often, the true long term visual impact of cladding very much depends on the quality of the chosen product and the final work and finish. In general, good quality aluminium cladding should maintain a subtle sheen and weather quite well, although there are some examples around the city of low quality aluminium cladding which has become quite shabby after just a decade or more of weathering. While I understand the concerns of the residents, I would consider limestone or other stone cladding to be a little too subdued for the context and could well result in quite a dreary overall composition with the adjoining buildings, and much the same concerns about the final quality of the materials chosen apply.

I therefore conclude that the overall form of development is, having regard to the zoning designation and the urban context, is acceptable and the use of bronzed cladding to be appropriate. I would recommend general conditions such that the planning authority approve the final finish and that landscaping and paving is also subject to approval.

#### 8.4.2. Views and prospects

There is one 'Prospect' to be preserved in the vicinity (Table 4.1.1 of Policy LHB6 of the Development Plan). This is a view from the park next to the playground north-east over the carpark of the appeal site. The view is over Dublin Bay.

The applicant has submitted a visualisation from this point (View 5 in the Visual Assessment Report). I can confirm that, as the visualisation indicates, the park is very well landscaped so only fragmentary views of the bay can be seen through trees from any point in or close to View 5. There would be better views in winter, although it is still likely to be largely obscured from most perspectives.

The proposed structure undoubtedly partly obstructs the at least theoretical view from this part of the Park. Notwithstanding this, having regard to the zoning designation and the overall objectives to increase density on such sites, I would not consider the impact on the prospect to be as such as to justify a refusal or the removal of floors.

## 8.5. Amenity

### 8.5.1. *Internal amenity*

The proposed 50 no., apartments are set out in two blocks of three storey over 2 basement stories, with a penthouse storey on top. About half of the units are single-aspect, although they are relatively spacious – I would note that the most up to date Guidance on Apartment design, the **Design Standards for New Apartments, Guidelines for Planning Authorities 2018** states in 'Specific Planning Requirement 4' that a minimum dual aspect requirement for suburban areas is 50% in suburban areas (page 16).

The southern block is lower than the northern one, reflecting the drop down in levels to the south. All apartments have balconies or a ground floor terrace, with separate shared parking, bike parking, with some storage in the basement. There is a courtyard with a playground indicated between the main blocks. Given the proximity of the large municipal playground next to the site, I would assume this is for the use of the smallest toddlers only.

The general layout of the site allows a relatively good level of light and amenity to most of the apartments, although the ground floor units to the courtyard are likely to receive little direct sunlight. Most of them have an either northerly or southerly direct aspect, with just the upper floors having views to the east. The former cinema



and proposed development on the western side precludes much glazing on this side of the building.

In overall terms I would consider that the size and layout of the proposed apartments are generally in line with national guidelines and standards set out in the development plan, and will contribute significantly to a better mix of housing types in the locality. I would consider the relatively high density (close to 100 units per hectare) to be appropriate considering the zoning designation, the proximity to public transport and other services, and the adjoining park. I would conclude that the overall design and layout is of a good and acceptable standard.

#### 8.5.2. *Noise*

The many submissions on this appeal are almost unanimous in expressing concern at noise and related impacts from the proposed restaurant/bar facility, with particular regard to the upper floor balcony and terrace to the premises.

As the applicant has noted, there has been a bar/restaurant in a variety of forms and uses on the site for over half a century, so it is certainly a well established use on the site and consistent with the zoning designation. While I note the quite significant decrease in floor space in the 'new' facility, I would concur with the point made by the Mount Merrion Residents Association and others that it is likely to be functionally not significantly smaller than the existing premises. The existing problems with noise seem to have a range of sources, from customers entering and exiting the premises, noise from open areas including smoking areas, and noise leakage from the building late at night. I note that while there is little evidence presented that this has been subject to complaints to the Gardai, those complaints are consistent among a number of submissions so I have no reason to question their veracity, although likewise there is no evidence that the premises is badly run or that its licensing restrictions are being breached. This is very much the type of conflict that is largely inevitable when a venue of significant size and popularity is located within a residential area, in particular in an area lacking many other such facilities.

While the proposed new bar/restaurant is moved to the east end of the site, closer to a number of dwellings, I do not consider that in overall terms of residential impacts this is particularly significant – I would consider the acoustic design of the building and its overall level/intensity of use and management as more significant in amenity terms than its specific location or orientation on the site. The existing eastern

elevation is approximately 80 metres from the nearest dwellings on North Avenue, the proposed changes would bring it to around 44 metres. The elevated nature of the site relative to houses on North Avenue and Wilson Road exacerbates any possible noise issue – moving the premises will increase the measurable noise levels, but the actual perception of amenity loss would probably not be all that much greater. I would therefore conclude that the overall principle of the type of design and layout proposed is more important in assessing the impacts than the question of where it should be located within the site.

The proposed building has a bar at ground level – no formal smoking area is shown, but it is implied that there could be clusters of smokers at the entrances on the northern, southern and eastern sides. The first floor is the restaurant, which has a very large balcony on the eastern side, facing North Avenue. It is strongly implied from the layout that this would be a functional part of the restaurant – it is certainly large enough for tables and would provide fine views on a good day so it would be popular in the summer. The upper floor function room has an even larger terrace, which again, is strongly implied as being accessible from the function room, and would, with its no doubt very fine views over to Dublin Bay, be a popular element.

I would consider that the bar element is not problematic – the three entrances, and the underground carpark, should act to disperse movements during peak times (such as when the pub closes in the evening), and the absence of a particularly large smoking area should reduce noise impacts. Having regard to the distance between the bar and the nearest dwellings on North Avenue, and the boundary provided by a busy road between them, I do not consider that this would create a problem so long as the bar operates at normal licensing hours (i.e. no late license) and standard noise suppression measures are used (this can be set by condition).

The first floor balcony has the clear potential for some noise, but again, as its next to quite a busy road, it is hard to see there being significant amenity impacts caused by outdoor dining, which in any event is likely to be restricted to only good weather. I could consider that this issue can be addressed by way of a condition such that the balcony is not used as an ancillary smoking area for the bar and that the restaurant hours are time limited to ensure it is not used beyond normal dining hours.

The function room is undoubtedly the most problematic element. While it may not be used frequently, the possibility of noise and other issues arising from late

evening/night functions would seem quite likely, even with very good management and controls. Even if it was acoustically sealed, constant movement from the function room to terrace would be likely and this would inevitably result in noise leakage. I further note that there is direct access to this terrace from the staff stairwell, which may be to facilitate serving customers on the terrace, or its use by staff as a smoking area.

I would be very concerned that there is a high potential for this function room to cause significant issues for local residents, and future residents of the apartments. I am not convinced that standard conditions on acoustic controls would be sufficient due to its design and layout. There are a number of options for alterations and controls that would be available to the Board to address potential problems – these could include:

- Deleting the upper floor by condition and setting a condition such that the first floor cannot be used for late night functions.
- Setting a condition whereby no public access is permitted to the terrace.
- Setting a condition whereby the entire terrace is to be fully enclosed and acoustically sealed with a smoking area only permitted on the ground floor.
- Setting a condition whereby the function room use is not permitted (but allowing it for other uses, such as overflow for the restaurant).
- Setting a condition whereby the function room use is strictly time controlled, with no use of the function room permitted beyond 10pm in the evening.

The other option is the revised set of plans submitted by the applicant with the response to the appeal – these plans re-orient the terrace and provides a blocking wall between it and North Avenue. I would consider that it is unlikely that this would very significantly reduce any impacts, although there would be minor noise deflection so I would not recommend this alternative as I do not consider that it addresses the primary issues.

In this case, a balance needs to be struck between the legitimate needs of maintaining a business on the site (having regard to the long history of such a use on those lands), and the reasonable concerns of local residents. I would recommend the final of those conditions as the most reasonable approach – I would therefore recommend that if the Board is minded to grant permission that a condition

is set such that the function room must not be used beyond 10 in the evening – this could be modified such that the room may be used, but access to the terrace be restricted – I would, however, be concerned about the enforceability of such a condition, so I would recommend that a strict limitation on its use beyond 10pm be applied.

#### 8.5.3. *Light*

A number of appellants and observers have expressed particular concerns about light pollution from the proposed development. There have apparently been issues with the use of big screen events with light flooding over a wider area, in addition to concerns about external lighting of the building.

I would consider that the use of underground parking will ensure there is lesser requirement for external lighting of the pub/restaurant. The proposals submitted by the applicants appear subtle and suitable, but I would recommend a condition such that more dramatic or stark lighting is not permitted in the future. I would consider that the issue of fugitive light from internal sources can be addressed through condition.

#### 8.5.4. *Overlooking*

The proposed balconies for the apartments, particularly those on the Wilson Road side, have some potential for overlooking nearby properties. However, having regard to the separation distances and the substantial vegetation in the area I would consider this to be normal and acceptable for the context.

Strong concerns were raised by a number of submissions on the potential overlooking from the terrace/balcony on the bar/restaurant – these face east over North Avenue. However, the separation distance is over 45 metres to the very closest front elevation, this is more than double the normal (22 metres) distance considered the minimal for full privacy. I further note that there is no direct overlooking of rear gardens. I therefore do not consider that there is a significant issue in this regard.

#### 8.5.5. *Overshadowing*

The proposed development is substantially larger than the structures on the site. The main impact would be on the immediately adjoining cinema (assuming the permitted development with its residential component goes ahead), and, due to the

overall drop in levels to the east and south, to the closest property on Wilson Road. This is currently the rear garden of a protected structure, and it has permission for four detached dwellings.

The cinema building is commercial in nature and presents a largely blank elevation towards the appeal site – there are a number of small windows on this site, apparently on stairwells. The permitted development on the site includes a substantial residential element, but appears to have been designed such as not to face the appeal site directly.

While the four permitted dwellings on Wilson Road are substantially separated from the proposed development, the levels difference, along with their location due south of the appeal site, will undoubtedly lead to some loss of direct light in the winter months. The owner of these lands has stated that the four units were specifically designed to maximise solar gain from their location. I would refer the Board in this regard to Drawing no. 619/PP9 ‘Elevations in context with existing cinema’ – this also shows the cross section of the proposed development next to the permitted dwellings on Wilson Road. I calculate that the apartments would be just over 26 metres from the permitted houses. The angle taken from the mid-point of a ground floor window in the permitted dwelling to the top of the northern apartment block is, I calculate, a little under 25 degrees from the horizontal. As the proposed buildings are directly south of the Wilson Road dwelling this is likely to lead to some minor loss of sunlight in the winter months – as indicated in the shadow study submitted with the planning application. But I would consider this loss to be entirely normal for an urban context – for most of the year there would be no direct impact.

#### 8.5.6. *Anti-social behaviour*

A recurring feature of the objections and observations in this appeal are complaints about anti-social behaviour at times associated with the existing premises. As it is not proposed to increase the size and scale of the overall premises, I do not consider that there is a planning basis for considering that the demolition and reconstruction would have a significant impact on this issue. A number of submissions raise the concern that it will become in effect a student bar due to its proximity to UCD, however, this is very much a matter for the applicant and the licensing authorities. It does not seem that the redesign would substantially alter the nature of the bar/restaurant, which seems primarily intended to serve the local area.

## 8.6. Traffic

### 8.6.1. Access issues

The existing bar/restaurant is accessed via two road accesses – one to Deerpark Road and the other to Wilson Road. The latter is the main service access and appears to be most used by customers. The proposed development replaces the surface parking entirely with two levels of basement parking (with bike parking), accessed via a new access more or less at the same point as the existing Wilson Road access. Service access to the bar/restaurant would be via the first basement level – no surface level service access is proposed and would likely be quite difficult given the limited parking available. All parking for the apartments is in the basement.

The existing area is quite congested as the road system is, typical of a mid-20<sup>th</sup> Century layout, quite narrow with tight transition curves, while still built on the apparent assumption that everyone will drive. There is plenty of visual evidence of intense demand for on-street parking through the day. The nearby shops all have parking to the frontage, while there are formal and informal parking areas west of Flanagans and in front of the church. The primary school associated with the church is accessed via 'The Rise', a separate road to the east. No doubt this school is responsible for quite a lot of 'set down' and 'pick up' traffic on the usual basis on school hours, although this is not likely to directly impact the area around the appeal site. There also appears to be some traffic and parking demand generated by users of the park and playground. There is a bus stop on North Road directly beside the site and it is a short walk from the QBC on Stillorgan Road. The roads in the area are relatively good for cycling as traffic speeds are quite low and the suburban road layout allows good informal permeability to avoid the busier roads.

In general, my impression is that the parking and traffic situation is relatively normal and acceptable for such an area, but there are significant potential issues when there is a cumulative impact, such as when an event in the church/community centre/school coincides with high demand for the Union Café or other uses in the area.

The applicants submitted a Transportation Assessment, Safety, Quality & Accessibility Audit and Preliminary Travel Plan with the application – subsequently updated in response to an FI request. These noted the generally slow levels of traffic and relatively high numbers of pedestrians and cyclists in the area (most notably children – most probably because of the playground). The overall conclusion of the study is that the proposed development will not result in significant increases in local traffic and the overall impact of the proposed works would be generally negligible.

I consider the assumptions and conclusions in the submitted documentation generally acceptable. I note the arguments made in a number of submissions that the baseline surveys were made outside the school year, but the main entrance to the school is not from the immediately adjoining road and this does not alter the overall general conclusion that the proposed development will result in a small, but not in overall terms, significant increase in traffic, and this increase is not likely to peak during the school travel hours due to the nature of the proposed development. It is reasonable to assume that the replacement bar/restaurant will have a roughly similar level of driving clientele as before. The increase in traffic will primarily arise from the apartments, and as the site is well served with public transport and cycling/walking options, it is reasonable to assume that car usage would be lower than usual for residential dwellings in the area.

The proposed access onto Wilson Road will result most likely in a quite similar level of vehicular vehicle movements here as existing, although the residential component would change the pattern of movement across the day. I would consider this to be the best site for an access as it brings traffic away from the more sensitive playground side. The overall design and layout of the entrance was satisfactory to the planning authority. The proposed development includes for the upgrade of the footpaths surrounding to a minimum 2 metre standard.

I could conclude that, having regard to the zoning designation of the site and its past history of use, the overall traffic impacts from the proposed development, and the proposals for access, would not cause congestion or result in a traffic hazard.

A number of submissions from Wilson Road requested that the Board consider a condition such that traffic calming on the road along with changes to on street parking be part of the development, in addition to requests that the Board consider a

ban on left turns onto Wilson Road from the proposed underground carpark. As the former impacts on lands outside the applicants control I do not consider this to be appropriate to set by condition, although I would consider the concerns of the residents about traffic on the road to be reasonable. However, I do not consider it likely that the proposed development would in itself generate significant extra traffic on Wilson Road.

#### 8.6.2. *Parking provision*

The proposed development proposes replacing all the surface parking for a total of 119 parking spaces in two basement levels. 74 of these are dedicated parking spaces for the residential element (65 plus 9 visitor spaces), with the remainder for the use of the bar/restaurant. A large enclosed key and fob controlled bike parking area for 66 bikes is also provided within the basement parking area. The planning authority state that they are satisfied with the quantum of parking proposed and state that it is consistent with development plan guidelines, having regard to the good pedestrian/public transport access to the area.

The various submissions highlight numerous claimed issues with parking in the area, mostly due to the cumulative impact of events in the Union Café, the adjoining church and community centre, nearby school, and the other retail uses nearby.

Although much of the parking in the area is 'private', I have no doubt that in reality there is 'cross-use' during peak times, especially with the large church carpark. In setting all existing parking underground this will lead to it being more controllable from the perspective of the applicant, and this may have knock-on impacts locally.

I further note that the times of extreme problems in the area are normally when there is a coincidence of uses in the local facilities – but this is likely to be a comparatively rare occurrence.

While I would not rule out the possibility of the proposed development causing problems when it is very busy – while the number of spaces provided is acceptable 'on average', no doubt there will be particularly busy evenings or afternoons when the basement will be full and customers driving will seek to park elsewhere, and if this coincides with a major event in the church then there will undoubtedly be overspill and a shortfall of parking. However, it would be unreasonable and contrary to national and local policy to insist on a very large level of parking provision to deal with all possible eventualities. I would consider the parking proposals to be



acceptable so long as they are used in line with the proposals within the documents to reduce car use (by, for example, encouraging staff not to drive to work). I therefore do not consider this a reason for refusal or significant alteration of the proposed development.

### 8.6.3. *Traffic safety*

Many of the submissions highlighted concerns with safety in the area, especially with regard to the number of children using the playground and school. I note that the Transportation Assessment submitted by the applicant noted in its survey the particularly high number of solo children pedestrians in the area, most likely accessing the playground/park.

As noted above, I do not consider that the proposed development will significantly increase traffic in the area, and I consider the general proposals for access are acceptable. I also note proposals for upgrading the paths and area around the bus stop adjoining the site as part of the proposed development. Having regard to the overall nature of the area I would consider that any safety impacts of the proposed development on traffic safety – in particular from the perspective of pedestrians and cyclists – to be broadly neutral.

## 8.7. **Construction issues**

The appellants and observers have raised many concerns about the potential for significant impacts from construction, either by way of noise, dust, induced traffic, or other impacts. Concerns are also expressed at the excavation works for the proposed basement, in particular the required piling for retaining structures. The applicant has submitted a revised Construction Management Plan (CMP) to address many of the issues raised.

I would note that the management of construction is subject to regulations and controls outside the scope of the planning acts. In this regard, what is relevant in terms of planning are aspects of the proposed development construction that would potentially result in issues over and above a 'normal' construction activity. In this case, the only really significant issue is the proposal for a basement structure, with the attendant requirement for major excavation and underground works.

I am satisfied however, that while the site is sensitive, due to its proximity to residential properties and a school, there is nothing particularly unusual about its location, the issues and problems would apply in almost any urban/suburban context. I would therefore recommend that if the Board is minded to grant permission, then a standard construction management condition is applied, with some adjustments to allow the Council to address the specific issues of noise/vibration from underground works (by requiring best available technology be used for excavation/piling) and the control of heavy vehicles, in addition to the possibility that a building from this period may have asbestos within its structure.

#### **8.8. Flooding**

The site is on a distinct slope with no nearby watercourses and no indication that there have been historic watercourses or waterbodies close by. There are no indications from available sources that there were floods in the past in the vicinity, or that the area is potentially subject to flooding. As the site is almost entirely covered with hardstanding at present I do not consider that the proposed development would substantially increase run-off from the site. I note the proposal for green roofs which, if properly designed, should reduce pluvial run-off during intense rain events.

#### **8.9. Cultural heritage**

There are no buildings on the National Inventory of Architectural Heritage or National Monuments in the vicinity of the site. There are a small number of protected structures in the area – ‘Assisi’ 1, Deerpark Road (western end of the road), ‘Stansted’, an art deco house on the corner of Callary Road and North Avenue, and the Mount Merrion House Stables, 93, The Rise.

The appeal site is not within a clear uninterrupted view of any of these sites, but the upper floors of the proposed development may be partially visible from in and around ‘Stansted’ and the stables. The mature landscaping in the area currently blocks views. As there is planning permission for four dwellings to the rear of Stansted I assume that as part of this there will be clearing of trees and hedges which will likely create a more open vista from this point. I would refer the Board to

View 6 in the Visual Assessment Report which gives a reasonable photomontage of the likely impacts without the removal of trees.

The main building on the site is somewhat unusual and a striking feature in the local area, it dates from the 1950's, as does the cinema building beside it. Although both are of local interest, I do not consider that the structure is of conservation value so the demolition of the entire building is acceptable.

I would conclude that the proposed development would not have a significant impact on any protected structures or other buildings of conservation value.

There is no evidence on file that there are any subsurface features of archaeological value on the site. Older OS plans indicate that the lands were open fields close to the demesne of Mount Merrion House. Any archaeological remains are likely to have been removed during the original mid-20<sup>th</sup> Century development of the area. I therefore do not consider that an archaeological monitoring or conservation monitoring condition is necessary.

#### **8.10. Appropriate Assessment**

The appeal site is approximately 1.8 km from Booterstown Marsh and the coastline of Dublin Bay. This is where the closest Natura 2000 sites are located – the South Dublin Bay and River Tolka Estuary SPA (site code 004024) and the South Dublin Bay SAC, site code 000210. Both are coastal, tidal and littoral areas designated for their importance for a variety of habitats and birdlife characteristic of these areas.

There is an extensive built up area between the site and the designated habitats.

There are no watercourses close to the site and no indication of historic watercourses in the vicinity. I would therefore consider that there are no pathways for pollution or other impacts that could have an adverse effect on the conservation objectives of any Natura 2000 site. I therefore conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 004024, or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

### 8.11. **EIAR Screening**

The scale of the proposed development is well under the thresholds set out the 2000 Regulations (as amended) in Schedule 5, Part 2(10) dealing with urban developments (500 dwelling units; 400 space carpark; 2 hectares extent), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I therefore conclude that EIAR is not required for the proposed development.

### 8.12. **Other issues**

The proposed development is subject to a Part V agreement for social and affordable housing, and I recommend this be confirmed by condition. The planning authority stated that a completion bond should be necessary, and the development contribution under Section 48 would be substantial – €12,944.96 for water and drainage, €296,479.78 for roads infrastructure, and €192,446.50 for parks and communities. I note the provision of a grass roof and solar panels – with regard to the former I would recommend a condition such that this be maintained in an acceptable condition. I do not consider that there are any other significant planning issues raised in this appeal.

### 8.13. **Concluding comments**

I conclude that the overall proposal is acceptable and consistent with national guidelines, development plan policy and the zoning designation and the design addresses the reason for refusal in the previous appeal on the site. I note the particularly high level of community concern expressed in the submission, but I would consider the core of the concerns of relevance to be the amenity impacts of the design and use of the upper floors of the bar/restaurant/function room element. I will recommend a number of conditions to address these, but I would highlight that there are a number of potential ways to address the concerns, which I have summarised in the bullet points on pages 51-2 above.

Other than these, I do not recommend significant alterations to the proposed development and I recommend a grant of permission.

## 9.0 Recommendation

I recommend that subject to the conditions set out in the schedule below, that the proposed development be granted permission for the following reasons and considerations.

## 10.0 Reasons and Considerations

Having regard to the zoning designation of the site, the historic use of the site, and the planning history of the site and general area, it is considered that the proposed development, subject to the conditions set out below, would not seriously injure local residential amenities, result in traffic congestion or traffic hazard, and would otherwise be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 7<sup>th</sup> day of February day of 2018 and the 21<sup>st</sup> day of March 2018, 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. The ground floor bar shall only operate during normal licensing hours. The first floor restaurant shall only be used as a licensed restaurant/café and shall not be used as a dance hall or nightclub or for functions. The first floor restaurant shall be used primarily for the consumption of food in association with the proposed restaurant use and shall not be provided with speakers or amplified music and shall not be used as a public bar,

dance hall or nightclub or for functions. The second floor function room shall be used only between the hours of 10am and 10pm on any day.

**Reason:** In the interest of protecting the residential amenities of the area.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

5. Comprehensive details of the proposed external lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational, before the bar/restaurant/function room commences operation.

**Reason:** In the interest of public safety and visual amenity.

6. Water supply and drainage arrangements, including the attenuation and 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.

7. The proposed green roof shall meet the requirements of Appendix 16: Green Roofs Guidance Document of the County Development Plan 2016-2022.

**Reason:** In the interest of clarity.

8. No music or other amplified sound or internal light spillage shall be emitted to the public street or broadcast in such a manner as to cause nuisance to the occupants of nearby properties.

**Reason:** To safeguard the amenities of the area and in the interest of

orderly development.

9. a) Amplified music or other specific entertainment noise emissions from the premises shall not exceed the background noise level by more than 3 dB(A) during the period 0800 to 2200 hours and by more than 1 dB(A) at any other time, when measured at any external position adjoining an occupied dwelling in the vicinity. The background noise level shall be taken as L90 and the specific noise shall be measured at LAeq.T.
- (b) The octave band centre frequencies of noise emissions at 63 Hz and at 125 Hz shall be subject to the same locational and decibel exceedence criteria in relation to background noise levels as set out in (a) above. The background noise levels shall be measured at LAeqT.
- (c) The background noise levels shall be measured in the absence of the specific noise, on days and at times when the specific noise source would normally be operating; either
- (i) during a temporary shutdown of the specific noise source, or
  - (ii) during a period immediately before or after the specific noise source operates.
- (d) When measuring the specific noise, the time (T) shall be any five minute period during which the sound emission from the premises is at its maximum level.
- (e) Any measuring instrument shall be precision grade.

Detailed plans and particulars indicating sound-proofing or other measures to ensure compliance with this condition shall be submitted to, and agreed in writing with, the planning authority prior to use of the premises. An acoustical analysis shall be included with this submission to the planning authority.

**Reason:** In order to protect the amenities of [residential] property in the vicinity having particular regard to the nuisance potential of low frequency sound emissions during night-time hours.

10. (a) All entrance doors in the external envelope shall be tightly fitting and self-closing.

(b) All windows and roof lights shall be double-glazed and tightly fitting.

(c) Noise attenuators shall be fitted to any openings required for ventilation or air conditioning purposes.

Details indicating the proposed methods of compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To protect the residential amenities of property in the vicinity.

11. The developer shall control odour emissions from the premises in accordance with measures which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public health and to protect the amenities of the area.

12. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than [1:500] showing –

(i) The species, variety, number, size and locations of all proposed trees and shrubs which shall not include prunus species.

(ii) Details of screen planting which shall not include cupressus cyprinus x leylandii.

(iii) Details of roadside/street planting which shall not include prunus species.

(iv) Hard landscaping works, specifying surfacing materials, furniture play equipment and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment

(c) A timescale for implementation

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 [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], 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 interest of residential and visual amenity.

13. No signage, advertising structures/advertisements, security shutters, or other projecting elements, including flagpoles, shall be erected within the site and adjoining lands under the control of the applicant unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

14. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the site and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed, including external signage. This plan shall also include details for the provision of future electric charging points for vehicles if and when required and shall include requirements for the management of the designated bike parking area.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units in addition to the proper management of parking for the proposed bar/restaurant element.

15. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company for all units within the bar/restaurant. Details to be agreed with the planning

authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

16. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be 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. The plan shall include details of waste 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 in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

17. Site development and building works shall be carried out only between the hours of 0800 to 1900 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.

18. Noise monitoring locations for the purposes of the construction phase of the proposed development shall be agreed in writing with the planning authority prior to commencement of any development on site. The

planning authority shall be notified prior to works of the timing and details of all underground piling and excavation works.

**Reason:** To protect the residential amenities of property in the vicinity.

19. The management and maintenance of the proposed development, 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.

20. 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.

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.

22. The developer shall pay to the planning authority a financial contribution 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

**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.

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Philip Davis  
Planning Inspector

25<sup>th</sup> September 2018