



An
Bord
Pleanála

Inspector's Report ABP-302038-18

Development	Construction of an additional floor (ie sixth storey over basement), to provide 8 no. apartments
Location	Block B, Baileys Court, Summerhill, Dublin 1 (bounded by St. Joseph's Convent Protected Structure), Portland Row, Baileys Row, and Duke Street
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	2158/18
Applicant(s)	Randalswood Construction Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Randalswood Construction Ltd.
Observer(s)	Transport Infrastructure Ireland
Date of Site Inspection	15 th October 2018
Inspector	Una O'Neill

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1.0 Site Location and Description

- 1.1. The subject site is located on Summerhill/Duke Row between the junctions with Buckingham Street Upper and Portland Row. The adjoining buildings and wider block, known as Bailey's Court, has been the subject of regeneration and redevelopment, approved originally in 2004 and completed in recent times. The overall regeneration of this block, comprising primarily apartments, has provided for the renovation and reuse of existing historic buildings, in particular St. Joseph's Convent (protected structure), 67 Summerhill (protected structure) and 69 Summerhill (protected structure), with the insertion of modern buildings into the historic streetscape and intensification of use of the block, providing for overall 134 apartments; some ground level community occupied units at street level onto Summerhill; basement car parking; and two internal communal courtyards.
- 1.2. Block B, which is the subject of this appeal, is an existing L-shaped five-six storey building (upper floor recessed), over basement level, positioned on the east side of an existing gated street, Bailey's Row, which bisects the block, connecting Summerhill to Portland Row. This block has frontage onto Summerhill/Duke Row and adjoins the redeveloped apartments within St. Josephs Convent, a protected structure, with the L shape of this building enclosing an internal courtyard shared with the apartments in the convent building. On the opposite site of Bailey's Row adjoining the entrance and fronting onto Summerhill/Duke Row is no. 69, which is a protected structure, redeveloped as part of this wider block. Behind no. 69 and opposite Block B, is Block A2, a four storey over basement building (subject of a concurrent appeal for an additional floor).
- 1.3. The site has a stated area of 733sqm, while the existing building has a stated area of 2,593sqm.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Construction of an additional floor (i.e. sixth floor) over existing five-six storey over basement residential block.

- Additional floor to comprise eight apartments (five x one-bedroom and three x studio apartments) with associated balconies to the north-west and north-east elevations, and a floor area of 379sqm.

3.0 Planning Authority Decision

3.1. Decision

Permission REFUSED for the following reason:

Having regard to the provisions of the current Dublin City Council Development Plan (2016-2022), including policy CHC2(d) and Section 11.1.5.1 in relation to protected structures, it is considered that the proposed development, by reason of its height, massing, form and materials, has the potential to cause serious injury to the character and setting of the protected structures at St. Joseph's Convent, Portland Row (Ref. 6838) and 69 Summerhill / Duke Row (Ref. 7867). The proposed additional storey would result in the building being overly dominant in the streetscape, and detracting from the visual amenities of the corner at the junction of Summerhill and Portland Row, thus being seriously injurious to the visual amenities of the Area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planner's report in relation to the proposed development recommended further information including photomontages, redesign of north facing apartments, substandard balcony size to an apartment to be addressed and lack of communal open space raised. Following receipt of further information the planner's report noted the following:

- The submitted photomontages show that the proposed additional storey would result in the building being overly dominant in the streetscape and detracting from the setting of the adjoining protected structures at St. Joseph's Convent and No. 69 Summerhill/Duke Row. Having regard to this and to the

concerns raised by the conservation report, it is considered that permission should be refused.

- The two north facing single aspect studio apartments (Nos. 31 and 32) were redesigned with wraparound glazing to become dual aspect. The amendments are very minor and, in the event of permission being granted, further amendments to these units, or amalgamation with adjoining units, may be required to ensure that they provide for an adequate standard of residential amenity.
- The balcony to unit 30 was increased in area to 4sqm; the bedroom was increased in size to meet minimum standards; and the storeroom was reduced to a maximum of 3.5sqm, as per the apartment guidelines.
- The applicant has not demonstrated to the satisfaction of the planning authority that the proposal provides for sufficient communal open space to meet the requirements set out in the departmental guidelines. It is noted that the existing central courtyard provides for some communal amenity space; however, the presence of existing recreational amenities in the locality is not, in itself, considered to be a substitute for either private or communal open space within a development.
- The development plan has a requirement for 10% of the site area to be reserved for public open space or, where this is not feasible, for a financial contribution to be made for its provision off site. This is in addition to communal open space and the presence of parks or other recreational facilities in the vicinity is not, in itself, a substitute for the provision of private or semi-private/communal open space on site.
- A daylight and sunlight assessment has been carried out as requested. This concludes that the proposal would result in loss of light to a number of windows to levels which are largely outside the BRE recommendation. These are mostly bedroom windows. It is concluded that the proposal would have a minor adverse impact in this regard. It is noted that there are twelve cases where the vertical sky component would be less than 27 and also less than 80% of its former value (i.e. the minimum recommended by the BRE

guidelines); however, in most of these the reduction below 80% is minor with the lowest being 73%.

- The proposal would also result in a minor reduction in sunlight to the existing shared courtyard to the east of the subject block, while the available sunlight would still meet BRE guidelines. There would appear to be little difference between the existing and proposed situation in respect of overshadowing of block B. It is concluded that there is no daylight or sunlight reason why permission could not be granted for the proposed additional storey.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to conditions.

Roads/Traffic Division: No objection subject to conditions. It is noted that there is sufficient parking within the existing basement car park to provide for the additional residential units. It is recommended that an additional eight bicycle spaces be provided for the new residential units.

Waste Management: No objection subject to conditions.

Conservation Report: Following receipt of additional information, concerns remain in relation to impact on protected structures on the wider site (St. Joseph's Convent and 69 Summerhill / Duke Row).

3.3. Prescribed Bodies

Transport Infrastructure Ireland: Submission received; note site is within area of Section 49 Luas Cross City levy scheme; recommend that, unless exempt, a levy condition be attached.

3.4. Third Party Observations

No observations were received.

4.0 Planning History

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

Split decision – Permission GRANTED for 92 residential units:

- **Block A** (comprising two blocks, A1 which fronts Buckingham Street and Block A2, part of 69 Summerhill and fronting Bailey's Row) – 45 apartments, in 1 x five and six-storey courtyard apartment buildings (12 x 1 bed; 28 x 2 bed and 5 x 3 bed), over ground floor comprising a pub, office units, local enterprise and incubator units, over basement car park.
- **Block B** – 29 apartments in 1 x six-storey apartment block (9 x 1 bed; 16 x 2 bed and 4 x 3 bed), over ground floor comprising office units, local enterprise and incubator units, over basement car park.
- **St Josephs Convent** refurbished for 18 student accommodation units on Duke Row/Portland Row.

I note the above final figures are as a result of condition 2, which omitted a floor from Block A (ie Block A2, adjoining Baileys Row and behind 69 Summerhill) and from Block B.

Permission REFUSED for

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

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

- 1 additional apartment permitted in Block A, reintroducing a fourth floor level immediately to the rear of no 69 for structural reasons (previously omitted by condition). *I note six apartments were proposed, but four were omitted by condition and the two fourth floor units were amalgamated into one.*
- one new retail unit at ground floor onto Summerhill, and
- three amended incubator units at new lower ground floor with new storage under Bailey's Lane;

- new community facility at ground floor onto Buckingham Street;
- lowering of part of the permitted basement with associated amendments to pub and increase in basement area to provide 73 car spaces in total;
- increase in height of permitted staircore facing internal courtyard to house telecom antennae including all associated ancillary work, landscaping and lowering of courtyard level of St. Joseph's Convent.

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

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

3149/09 - Permission GRANTED for amendments to include

- change of use of 11 lower/upper ground floor units (i.e. two retail, one meeting room, one antenna room and seven incubator units) to 12 educational units, retail unit and betting office and 19m² extension to rear of proposed ground floor educational use to south elevation of block B, terraced walkway at upper ground floor level of block B (south and east elevations)
- amendments to landscape proposal to internal courtyard area to block B including new access ramp
- extension of two stairs and lift cores in Block B to allow for 73sqm additional communal private roof terraces and
- reconfiguration of basement boundary wall adjacent to St. Joseph's Convent (protected structure).

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

3666/14 - Permission GRANTED for amendments to Block A and Block B, largely comprising change of use of ground level commercial/education units to residential

units. The following summarises the key elements of the permitted development (as amended by condition 2 of the permission):

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

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

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

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

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

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

3726/14 – Permission GRANTED to convert no. 67 into 4 residential units (1 x 3 bed apartment and 3 x one bed apartments) and link this to no. 69 and connect to rear courtyard area within Block A Bailey’s Court for shared use.

Block A2 – Amendments

ABP-301201-18 – Concurrent APPEAL by first party against REFUSAL for additional floor to Block A2 for 11 apartments.

Block A1 - Amendments

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

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

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

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

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

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

5.0 Policy Context

5.1. National Policy

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

5.2. Dublin City Development Plan 2016-2022

- **Zoning Objective Z5** – ‘to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity’.
- **Protected Structures** on Portland Row and Summerhill Road (proximate to the appeal site):
 - RPS 6838: Portland Row; Convent
 - RPS 7865: 66 Summerhill; Licensed Premises
 - RPS 7866: 67 Summerhill; House
 - RPS 7876: 69 Summerhill; Licensed Premises
- **Chapter 5:** Quality Housing.
- **Plot ratio** in this zoning is between 2.5 and 3.0.
- **Site coverage** recommended is 90%.
- **Section 11.1.5.3:** Protected Structures – Policy Application.
- **Section 16.7.2,** Building Height: Up to 28m (commercial); Up to 24m (residential).

- **Section 16.2.2.2 and 16.10.10**, Infill Development.
- **Section 16.2.2.3**, Alterations and Extensions.
- **Section 16.10.1**, Residential Quality Standards, Apartments.

The following policies are of note:

- **Policy CHC1:** To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.
- **Policy CHC2:** To ensure that the special interest of protected structures is protected. Development will conserve and enhance Protected Structures and their curtilage...
- **Policy SC13:** To promote sustainable densities, particularly in public transport corridors, which will enhance the urban form and spatial structure of the city, which are appropriate to their context ... having regard to the safeguarding criteria set out in Chapter 16 (development standards)...and for the protection of surrounding residents, households and communities.
- **Policy QH1:** To have regard to the national guidelines relating to residential development...
- **Policy QH8:** To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.
- **Policy QH18:** Promote high quality apartments and amenity within individual apartments and within each apartment development...
- **Policy CHC1:** To seek the preservation of the built heritage of the city that makes a positive contribution to the character, appearance and quality of local streetscapes and the sustainable development of the city.
- **Policy SC17:** To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city...In particular, all new proposals

must demonstrate sensitivity to the historic city centre, the River Liffey and quays... and to established residential areas...

- **Policy SC25:** To promote development which incorporates exemplary standards of high-quality, sustainable and inclusive urban design, urban form and architecture befitting the city's environment and heritage and its diverse range of locally distinctive neighbourhoods, such that they positively contribute to the city's built and natural environments. This relates to the design quality of general development across the city, with the aim of achieving excellence in the ordinary, and which includes the creation of new landmarks and public spaces where appropriate.

5.3. Natural Heritage Designations

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

6.0 The Appeal

6.1. Grounds of Appeal

The applicant's grounds of appeal is summarised as follows:

- The proposed development is for an additional floor, ie six storeys over basement, to provide for 8 apartments and associated balconies/terraces. The proposed height will be 17m from ground level.
- The height, form, massing and materials have already been approved under ref 4099/16 and 2570/18 at Block A1. Block A2, assessed under ref 4588/17 (concurrent appeal case), indicated no concerns with materials and form of development. Principle of additional height and materials have already been established at Bailey's Court with these applications. In that application the DCC planner's report on 2570/18 indicated that materials and set back of the proposed floor in line with existing setback, would ensure no adverse impacts on the streetscape.
- The height is in accordance with development plan policy, which allows for 24m.

- The proposed height represents sustainable development on a city centre site, with existing precedent on Buckingham Street Upper and Summerhill.
- Given the height and form has already been permitted at Bailey's Court, the main issue for refusal is the impact on the protected structures. Architectural Heritage Partners have been engaged to assess the impact on the protected structures. The report states there will be no impact on the adjoining protected structures. Serious injury to the character and setting is without foundation as the proposal does not interfere with the original convent design or structure. The setting is one of diverse and piecemeal development. There is no negative impact on the existing character of Summerhill. It can only be viewed as a necessary upgrade of residential amenity.
- The proposed additional storey is set back further than the existing storey. The roof details of the protected structure are sufficiently separate and distant to avoid any impact from the proposed additional floor to Block B.
- The character and setting of the protected structures should be considered in the context of the surrounding environment which comprises a mix of contemporary and old dilapidated buildings.
- When viewed from the junction of Summerhill Road and North Circular Road, the granted additional storey at Block A can be seen in context with the proposed additional floor at Block B. The proposed development, whilst visible from this junction, will not detract from the existing protected structure as confirmed by Architectural Heritage Partners.
- An alternative material, as recommended by Architectural Heritage Partners, is proposed with this application, which comprises a wall cladding with selected random four colour pattern.
- The existing communal open space is in excess of the communal open space required for the proposed development and the other concurrent application.
- The existing overall communal open space provides for 1081 sqm of high quality useable open space.
- The NPF supports compact growth and targets a greater proportion (40%) of future housing to be within and close to the existing footprint of built-up areas. It

seeks to make use of underutilised land and buildings, including infill and brownfield sites, with higher housing and job densities.

6.2. **Planning Authority Response**

No additional comments received.

6.3. **Observations**

None.

6.4. **Further Responses**

None.

7.0 **Assessment**

7.1. The applicant proposes to construct 8 apartments through the addition of a new floor to this existing L-shaped five-six storey over basement building, which comprises at present 36 apartments. There is a central communal area which is also fronted onto by St. Joseph's Convent, which comprises 43 apartments.

7.2. 136 apartments currently exist within the overall development block, which includes Block A (A1 and A2) and no. 69, no. 67, Block B and St. Joseph's Convent. A recent permission for an extra floor to Block A1 results in a net increase of 5 units to the overall development, ie a total of 142 units. Bailey's Court, including the unbuilt additional 5 units, comprises the following mix of units:

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

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

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

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

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

- 7.3. I note there is a concurrent appeal before An Bord Pleanála, ref ABP-301201-18, which seeks to add an additional floor of 11 apartments to Block A2, which is directly opposite Block B (subject of this appeal), on the opposite side of Bailey's Row.

Zoning

- 7.4. The subject site is located within zoning objective Z5, the objective for which is 'to consolidate and facilitate the development of the central area, and to identify, reinforce, strengthen and protect its civic design character and dignity'. I consider the development of additional apartments as proposed to be acceptable in principle within the zoning objective for the area.

- 7.5. The primary issues for assessment relate to:

- Height and Impact on Protected Structures
- Apartment Sizes and Guidelines
- Communal Open Space
- Other Matters

Height and Impact on Protected Structures

- 7.6. With regard to the planning history of the site, I note the parent permission, PL29N.204138, which dates from 2004, amended Blocks A and B of the proposed development by condition 2, which omitted a floor from Block B and Block A2 (opposite Block B). I further note the height of Blocks A2 and A1 have been amended by subsequent permissions.
- 7.7. The overall height of Block B as it exists is approx. 14.5m, when measured from Summerhill elevation (5/6 storey over basement, with site lower to the rear), with two additional stairwell/lift shaft projections at roof level with a height of 2.6m. The overall height with this development in place would be 18.2m, with the upper floor recessed as per the existing upper floor and the balconies smaller/recessed over the existing.
- 7.8. Block A2 is approx. 14.4m (4 storey over basement), with additional stairwell/lift shaft projection of 1.2m. There is a concurrent appeal before An Bord Pleanála to add a

floor to Block A2 also, which would result in an overall height of approx. 17.6m. Permission has been granted recently for an additional floor at the upper level of Block A1 (block facing onto Buckingham Street Upper), resulting in this building being permitted now as a 6 storey over basement building, with the upper two floors (one existing and the latter proposed) to be recessed.

- 7.9. 3D images and street views of the proposed development were received by way of Further Information to address concerns in relation to the volume and massing of the development, particularly in light of their location relative to the protected structures of St. Joseph's Convent and 69 Summerhill (retained façade). The conservation officer's report considers the bulk, massing and height of the proposed development would dominate the streetscape along Duke Row, and would have an adverse impact on the reading of St. Joseph's Convent especially at the junction of Summerhill and North Circular Road. It is stated the provision of a sixth floor directly opposite the gable ended wall of the convent building would be overly dominant and would not respond sympathetically to the finely articulated form and materials of the convent building.
- 7.10. While the applicant argues that additional height has already been permitted and accepted in this area and would meet development plan limits of 24m, I am cognisant that Block B is different to that of Block A2 and other taller developments in the area, given it's immediate context and location adjoining the protected structure of St. Joseph's Convent and opposite 69 Summerhill. However, I am also cognisant of the changed built environment since the original permission in 2004 and have reviewed the built environment having regard to the completed redevelopment and refurbishment of this section of Summerhill/Portland Row, and in the context of other modern higher developments constructed/currently under construction along Summerhill.
- 7.11. The gable of the protected Convent fronts onto Summerhill/Duke Row, with the main façade of the Convent presented onto Portland Row, around the corner from the appeal site. From Portland Row the context of the modern additions of Blocks B and A2 are not visible. A single storey section of the convent adjoining the main gable end of the building is attached to Block B, with a separation distance of approx. 11m between the main body of the Convent Building and main body of Block B. From along Summerhill road /proximate to the junction with Buckingham Street Upper, the

visibility of St. Joseph's Convent is limited, with the gable in line with adjoining Block B. The junction of Summerhill/Duke Row and Portland Row/North Circular Road is the most visible point from which both the Convent and Block B can be viewed together, as noted in the conservation officer's report. From this context the existing Block B is clearly higher, however, there is a separation distance of 11m between the body of the two buildings which supports their independent legibility within the street and when approaching the junction from the north, ie from the North Circular Road and Portland Row junction, the dominant view of the convent is of its elevation to Portland Row and not west along Summerhill/toward Block B. The additional floor proposed is recessed, as per the existing upper floor and in my view the addition of one floor to Block B will not significantly detract from the main views of St. Joseph's Convent along Portland Row or have an adverse impact on the setting of the protected structure and the architecture detailing of this structure as viewed at the corner of Summerhill/Portland Row/North Circular Road, which will be as legible post construction as it is now, given the separation distance from Block B and set back of the proposed new level.

- 7.12. I note the applicant proposes a multi-colour panel of finishes. I do not agree that this is necessarily the correct approach. Finishes and samples would need to be seen on site and agreed in writing with the planning authority to determine if a panel different to that utilised on the existing upper recessed floor is acceptable.

Apartment Sizes and Layout

- 7.13. I have assessed the proposed development against the guidelines Sustainable Urban Housing: Design Standards for New Apartments (2018). In accordance with Specific Planning Policy Requirement 3, minimum apartment floor areas are as follows:
- Studio apartment (1 person) 37 sq.m.
 - 1-bedroom apartment (2 persons) 45 sq.m.
 - 2-bedroom apartment (4 persons) 73 sq.m.
- 7.14. The proposal is for eight apartments, 5 x 1 bedroom and 3 x studio apartments. The one bed units range in size being 47sqm/50sqm/52sqm/55sqm in area and therefore meet the minimum standard of 45sqm.

- 7.15. One bed apartments require private open space of 5sqm. The balcony area serving apartment 30 is 4.15sqm, therefore it does not meet the minimum requirement. This is also the case with apartment 34 (1 bed) where the proposed balcony is approx. 3.57sqm and therefore does not meet the minimum required. Apartment 34 also indicates a storage area of 1.68sqm, whereas 3sqm is required. I note the aggregate living area is larger by 2sqm, therefore this could compensate for shortfall of identified storage. I note that apartment 30 has already been amended by condition to address the issue of the balcony and while the applicant's submission was accepted by the Planning Authority, it is still below the minimum required and in my view any further reduction of the living/kitchen area could compromise its functionality/circulation space. Should the Board be minded to grant permission, I recommend the amalgamation of apartments 30 and 34 to create a three bed unit which meets all minimum standards, including that of private amenity space.
- 7.16. Studio apartment 35 is designed with a separate bedroom area to the living/kitchen area with the plans indicating a sliding door separating the bedroom. I do not accept the design is in accordance with that of a studio apartment but should rather be assessed as a one bed apartment. In my opinion, when assessed as a one bed unit, apartment 35 falls short in terms of floor area requirements for a one bed, being 44sqm in area, which is below the SPPR3 requirement of 45sqm. The amalgamation of apartments 30 and 34, as suggested above, could facilitate a reorganisation of apartment 35 and increase in floor area of that apartment to meet minimum standards. This could be addressed by way of condition, should the Board be minded to grant permission.
- 7.17. Studio Apartments 30 and 31 are both single aspect, facing north. While the applicant has amended a part of the glazing so that it is wraparound onto the side of the balcony, I do not accept that this has altered it sufficiently as to be regarded as now being dual aspect. However, given this is the upper floor to the scheme with significant views north and no potential for overshadowing, I consider the limited provision of these two north facing apartments to be acceptable. The storage area indicated is below the minimum required, however I note the overall aggregate living area is approx. 36sqm, above the minimum of 30sqm, and therefore there is adequate space for storage available.

7.18. With regard to national policy guidance, I note the appeal site is centrally located in the north inner city of Dublin, is in close proximity to a range of services within walking distance, and is proximate to a number of high quality public transport services. It is an objective of the NPF to support the growth of cities versus their outward expansion through increase densities and better utilisation of existing sites within urban areas. I consider the additional residential floor to this development supportive of this national objective.

Communal Open Space

7.19. The document Sustainable Urban Housing, Design Standards for New Apartments, (2018) states the minimum required areas for public communal amenity space which are based on apartment sizes and number of beds. A studio apartment generates a requirement 4sqm; a 1 bed requires 5sqm; 2 bed (3 persons) is 6sqm; 2 bed (4 persons) is 7sqm; and 3 bed is 9sqm. I note that the guidelines state 'for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality'. However, in my view this relaxation of standards does not apply to this case, given the overall size of the development in question, which cannot be justifiably categorised as a refurbishment scheme given it's currently completed and refurbished status.

7.20. The proposal is for eight apartments, 5 x 1 bedroom and 3 x studios apartments, which would generate a requirement for 37 sqm communal open space.

7.21. No additional communal open space is proposed. It is argued by the applicant that there is sufficient space provided and there is adequate public open space and amenities within the immediate area. The applicant has submitted a drawing as part of the grounds of appeal showing the courtyard areas for the wider block of development amounting to 1081sqm. The appeal submission states the overall communal area required for the entire development is 1037sqm. The drawing submitted as part of the grounds of appeal shows the communal open space within Block A is 407sqm and within Block B/St. Joseph's Convent is 674sqm.

7.22. While the applicant states the area on site within Block B is 674sqm, they have included in their calculation the ramped area and adjoining private terraces, which should not in my view be included as they are unusable as communal amenity

space. I further note a square of communal space at first floor level to the rear of Block B/part of convent has not been included on the drawings or in the calculations. This area, which is not currently landscaped/designed in any way, comprises an area of 132sqm and was included in the original permission as communal space. I have recalculated the communal area serving Block B and St. Joseph's Convent as being approx. 583sqm (approx. 451sqm relates to the ground level main space; 132sqm relates to the first floor level terrace).

- 7.23. I calculate that the two existing communal areas serve a total of 142 apartments within the overall Bailey's Court development, which includes Block A (both buildings, including most recent permission 2570/18 for 8 one bed units not yet constructed), Block B, 67 and 69 Summerhill, and St. Josephs Convent. While I acknowledge that the development has been constructed over a period of time when different open space policies were in force, I note, for reference purposes, that based on current standards, the 142 units permitted would require a communal area of approx. 960 sqm. There exists at present, by my calculations, an area of 990sqm, therefore there is an excess of approx. 30sqm available on site. I note a rooftop terrace of 73sqm, which was required to be provided as part of a previous permission, has not been delivered on site and the proposed development would result in the theoretical loss of 73sqm communal space. However, as the level of provision overall is considered acceptable, I do not consider it necessary to replace the rooftop level terraces in this current application.
- 7.24. While there is adequate space when one considers the two communal areas, I consider it appropriate to consider further the communal space on the basis of the blocks which they serve and not combined, in order to satisfactorily address the intensification of the blocks proposed in this and the concurrent appeal for Block A2 and as already permitted for Block A1.
- 7.25. If current standards were applied, the size of the communal area within Block B/St Joseph's Convent, would be required to be approx. 550sqm in area (based on number and unit size mix) and as noted above what exists is approx. 583sqm, ie a difference of 33sqm. Therefore, while the number of units proposed would be an intensification of the site, this would not result in a significant intensification of use of the communal space based on current standards. In my view the increased requirement of 4sqm is negligible. I note that the majority of the apartments within

the convent building have no private amenity space and therefore rely on the communal space, however this was accepted in previous applications and I do not consider the addition of these units affects the access to all of the communal space in a significant way.

Other Matters

- 7.26. With regard to the planning history on the site, amendments permitted under 3149/09 provided for a roof top terrace 73sqm in area. From a planning report accompanying a subsequent permission (3666/14), the applicant stated the physical works relating to the 2009 application were implemented in full including the ramp in the courtyard and terrace in Block B, however, from site inspection, it would appear the roof top terraces were never provided. A permission cannot be implemented in part but must be implemented as a whole. Any other matters/enforcement issues, including in relation to the landscaping of the first floor level communal area, which has not been undertaken are per a previous landscape plan, are a matter for the planning authority.
- 7.27. With regard to public open space, the Dublin City Development Contribution Scheme 2016-2020 provides for a Community Parks Improvement Programme as part of the general section 48 contribution scheme and provides for a contribution in lieu of open space. I note that Section 48(2)(c) financial contribution conditions may be applied only to exceptional costs not covered by such a scheme. I consider that the terms of the section 48 scheme addresses public open space and that the issue of public open space does not fall within the scope of Section 48(2)(c) of the Planning and Development Act 2000, as amended, therefore, should the Board be minded to grant permission, I consider a specific section 48(2)(c) condition relating to costs of public open space is unwarranted in this instance.

Appropriate Assessment

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

Environmental Impact Assessment

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

8.0 Recommendation

8.1. It is recommended that permission be granted.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Dublin City Development Plan 2016-2022, the existing pattern of development in the area, the site's central location, and the context of the site, including existing protected structures adjoining the site, it is considered that subject to compliance with the conditions set out below, the proposed additional floor, which is recessed, would not seriously injure the amenities of the area or have an adverse impact on the setting of protected structures in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

- (a) Apartments 30 and 34 shall be amalgamated to create a three bed unit and shall comply with the requirements of the Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, 2018, including minimum floor area and private amenity standards.
- (b) Apartment 35, in conjunction with the redesign of apartments 30 and 34 shall be designed as a one bed unit and shall comply with the requirements of the Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, 2018, including minimum floor area and private amenity standards.

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

Reason: In the interests of residential amenity.

- 3. This permission is for seven apartments only.

Reason: In the interest of clarity.

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

Reason: In the interest of visual amenity

- 5. The developer shall comply with the following requirements:

- (i) 8 cycle parking space shall be provided at basement level and revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- (ii) All costs incurred by the planning authority, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

Reason: In the interest of the proper planning and sustainable

development of the area.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

7. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

9. A plan containing details for the management of waste (and, in particular, recyclable materials) for the additional apartments within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of

development. This plan shall provide details of intended construction practice for the development, including:

- (a) location of the site and materials compound including areas identified for the storage of construction refuse;
- (b) location of areas for construction site offices and staff facilities;
- (c) details of site security fencing and hoardings;
- (d) details of on-site car parking facilities for site workers during the course of construction;
- (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) details of appropriate mitigation measures for noise, dust and vibration and monitoring of such levels;
- (j) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (k) off-site disposal of construction/demolition waste; and
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

Reason: In the interests of amenities, public health and safety.

11. 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.

12. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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

Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

13. 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 or management company 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.

Una O'Neill
Senior Planning Inspector

30th October 2018