



An  
Bord  
Pleanála

## Inspector's Report ABP- 302082-18

---

<b>Development</b>	Five Storey over basement apartment complex containing Ninety Apartments
<b>Location</b>	Beach Road/Church Avenue, Sandymount, Dublin. 4
<b>Planning Authority</b>	Dublin City Council
<b>P.A. Reg. Ref.</b>	2001/18.
<b>Applicant</b>	Thomas McMullan.
<b>Type of Application</b>	Permission
<b>Decision</b>	Grant Permission
<b>First Party Appellant</b>	Thomas McMullan (X Conditions)
<b>Third Party Appellants</b>	<ol style="list-style-type: none"><li>1. St. Mathew's School.</li><li>2. Aoife McDonnell &amp; Stephen Gargan and Residents.</li><li>3. Jim and Colm McBride, Jacinta Tighe, and Pauleen Keenan</li></ol>
<b>Observers</b>	<ol style="list-style-type: none"><li>1. Mary and Leonard Harnett.</li><li>2. Paul Tierney</li></ol>
<b>Inspector</b>	Jane Dennehy
<b>Date of Inspection</b>	11 <sup>th</sup> October, 2018.

# Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	5
3.4. Third Party Observations .....	7
4.0 Planning History.....	7
5.0 Policy Context.....	8
5.1. Development Plan.....	8
6.0 The Appeals .....	9
6.2. Applicant Response .....	16
6.3. Planning Authority Response .....	20
6.4. Observations.....	22
6.5. Further Responses.....	24
7.0 Assessment.....	25
8.0 Recommendation.....	39
9.0 Reasons and Considerations.....	39
10.0 Conditions .....	40

## 1.0 Site Location and Description

- 1.1. The site has a stated area of 3,850 square metres and at present is in use as a motor showroom and sales and services outlet, and as separate filling station with forecourt retail unit. It has frontage onto Beach Road, the eastern end of Cranfield Place to the south and the eastern of Church Avenue to the north. These residential roads connect with Tritonville Road and Beach Road which is to the east side of the site frontage with Church Avenue being classified as part of a Regional route (R131) connecting to Beach Road linking to the Sean Moore Road Roundabout, the East Link Bridge, Poolbeg, and the local road network close to south east of the city centre. .
- 1.2. A primary school campus, comprising a two-storey building and external play areas (St Mathews) is located to the west side of the site and a wall and fencing are located along boundary between the two properties. No 36 Cranfield Place is adjacent to the southern corner of the site at the junction. Three infill houses, Nos 7-9 adjoin the north western boundary and have a shared access onto Church Avenue. Opposite the northern frontage of the site there is a terrace of eight nineteenth century houses.

## 2.0 Proposed Development

- 2.1. The original application lodged with the planning authority indicates proposals for demolition and clearance of the existing above and below ground structures on the site and for construction of a five storey, ninety-unit apartment block, (comprising 23 one bed units, 53 two bed units, and 14 three bed units) with vehicular and pedestrian access onto Beach Road. The frontage onto Beach Road has a length of eighty-eight metres. Provision is also made for ninety car spaces, ninety cycle spaces four motor cycle spaces, plant and equipment, attenuation facilities, waste management facilities along with an ESB substation which has a stated re of 23 square metres.
- 2.2. The total gross floor area is 11, 527 square metres exclusive of the basement which has a total floor area of 2,889 square metres.

- 2.3. Balconies and terraces for the units are shown on the elevations facing Beach Road, Cranfield Place and Church Avenue frontages. A ground floor courtyard and play space are located at ground floor level. Provision is also made for changes in levels, landscaping and boundary treatment, a green roof, (as a SUDS measure) eight ground level cycle spaces, a waste collection area, plant and equipment and site works.
- 2.4. The proposed structure in the original application is a five storey over basement block, incorporating third and fourth floor setbacks and the total stated floor area is 11,527 square metres, 2,889 square metres of which is for the basement level. The fifth floor, penthouse level has glazed elevations. A smaller square shaped additional element is added to the block at the west side.
- 2.5. Further to issue of the multiple item request for additional information in relation to scale and design, public open space, shadow impact, details on a proposed penthouse, single aspect units, vehicular access and parking arrangements and facilities and services, a response was received on 23<sup>rd</sup> May, 2018. The application and further information submissions included assessment and analysis report and revised reports on site-specific flood risk assessment, traffic, and transport assessment report inclusive of traffic counts and auto track analysis, external sunlight and daylight analysis, outline construction and demolition waste management plan, operational waste management plan, an engineering Planning Report (drainage), mechanical and electrical engineering, energy statement, archaeological assessment, community and social infrastructure audit and an appropriate assessment screening report.
- 2.6. The comprehensive further information submission includes proposals for modifications at the northern end of the block, (which results in a reduction in the total number of units to eighty-seven), access and parking arrangements, distribution and provision for hard and soft landscaping, boundary treatment and amenity space to address matters of concern raised by the planning authority.

## **3.0 Planning Authority Decision**

### **3.1. Decision.**

By order dated, 19<sup>th</sup> June, 2018 the planning authority decided to grant permission subject to conditions generally of a standard nature and the following additional requirements:

Condition No 3: reconfiguration of the layout and block to provide for open space at the northern boundary with Church Avenue. (A compliance submission is required.)

Condition No 10:

(i) Preparation of a detailed construction management plan following appointment of a contractor.

(ii) Left turning egress only to Beach Road with signage to indicate same.

(A compliance submission for each of the above is required.)

Condition No 11 which contains fully detailed, itemised requirements for waste management, storage and collection arrangements.

Condition No 12 contains a requirement for refuse storage facilities to be in place prior to occupation of the development. (A compliance submission comprising details of the proposed arrangements is required.)

Condition No 13 contains detailed requirements with regard to drainage arrangements to include SUDS measures and flood mitigation measures as set out in the Site Specific Flood risk assessment to be fully implemented

Condition No 14 is an archaeological monitoring condition.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Officer**

The planning officer, who provided detailed and comprehensive assessments in his report, having considered the original and further information submissions and the technical reports concluded that the proposed development is acceptable.

### 3.2.2. **Drainage Division.**

The final report, issued further to receipt of the additional information submission including a revised site-specific flood risk assessment report to demonstrate no increased flooding risk attributable to the development, details of warning and management arrangements and, details of arrangements for discharge of surface water to the surface water sewer, indicates satisfaction with the proposed development subject to conditions.

### 3.2.3. **City Archaeologist.**

The report contains a recommendation for preparation and submission of an archaeological impact assessment report, by condition, should permission be granted.

### 3.2.4. **Roads and Traffic Planning Division Department.**

The initial Roads and Traffic Planning Division's report is comprehensive in commentary on the application submissions which include observations on the significant change in variation in traffic movements relative to that of the existing filling station and motor dealership and concludes that trip generation would be reduced by the apartment development which is accepted. The arrangements for and design for access and egress and for parking on site are noted. It is stressed that no works to the road network that would affect possible future roads layout including the cycle network plan, public realm improvements providing for a coastal route with a coastal walkway promenade that connects to Beach Road are noted. Of two options for public realm works, it is stated that the second (Option 2) which includes works outside the redline boundary, for the Beach Road public realm layout would be unwarranted.

Deficiencies in design and gradient for the access ramp, deficiencies in the right turning arrangement on exiting the site, due to the location of the proposed substation, on site visitor parking, on-site parking management were identified.

It is also stated that the proposed arrangements for deliveries, emergency vehicles, parking provision on site are all acceptable with it being recommended that footpath upgrade works be proposed and implemented.

The Division indicated satisfaction with the further information submission details, and no objection to the proposed development subject to resolution of final outstanding matters by condition.

### **3.3. Third Party Observations**

Several observations were lodged with the planning authority in which the issues raised include concerns about:

- Compatibility with the integrity of the existing neighbourhood having regard to design, form, height, intensity and density and with regard to impact on residential amenities and value of adjoining residential properties by reason of proximity to boundaries, overbearing impact overlooking and overshadowing.
- Lack of provision for a creche facility
- Impact on adjoining school site's development potential, overlooking and safety and security of children attending the school.
- Construction stage impacts structural stability and flooding risk having regard to the water table, tidal location and attenuation facilities in adjoining lands.
- Capacity of existing drainage network.
- Impact on traffic volumes having regard to the junction on Beach Road and public safety by reason of traffic hazard in the vicinity of the proposed entrance.

### **4.0 Planning History**

The planning officer in his report provides a record of an extensive planning history relating to minor development proposals at the motor sales and filling station dating back to the 1990s. (P. A. Reg. Refs 4267/09, 3173/10, 3153/00, 1631/96, 1121/95, and 0373/91 refer.)

## 5.0 Policy Context

### 5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 (CDP) according to which the site location is within an area subject to the zoning objective: Z1: *To protect, provide for and/or improve residential amenities.*

The location is within the zone of archaeological potential for recorded monument “DU018-054 Dublin City” and a zone of archaeological interest. The area at the western end and along the northern side of Church Avenue comes within a Residential Conservation Area and is subject to the zoning objective ‘Z2’.

Development management standards including specific qualitative standards for residential development are set out in Chapter 16 and include the following requirements:

An indicative plot ratio of 0.5-2.0 and site coverage of 34-60 percent is recommended for development in area subject to the Z1 zoning objective.

There is a requirement for dwelling mix that provides for a maximum of 30% one-bedroom units and a minimum of 15% three three-bedrooms

Policies relating to for building heights are within section 7.8 and provide for a maximum height of sixteen metres for residential development outside the city centre.

According to Table 16. 2 for carparking there is a requirement for one space per residential unit and one cycle space per residential unit.

There is a requirement for ten percent of the total site area to public open space provision for residential development and a requirement for communal open space provision at a standard of 5m<sup>2</sup> for a one-bed, 7m<sup>2</sup> for a two-bed. and 9m<sup>2</sup> for a three-bed apartment.



Sunlight and Daylight standards should accord with the recommendations in “*Site Layout Planning for Daylight and Sunlight: A guide to good Practice*” (Building Research Establishment Report) 2011.

## 6.0 The Appeals

### 6.1. First Party Appeal

6.1.1. An appeal was received from Tom Phillips Associates on behalf of the applicant on 16<sup>th</sup> July, 2018. The appeal is solely against the inclusion of Condition No 3 which is attached to the decision to grant permission. It requires the applicant to reconfigure the public open space so that it adjoins Church Avenue and is not within the residential development with omission of one apartment at ground floor, up to the third floor, at the northern end of the development. A compliance submission is required, and the reason provided is, compliance with development plan requirements. According to the appeal:

- Public open space provision should be considered in the context of the area which is exceptionally well served in that Ringsend Park. (10.5 ha) It is two hundred metres to the south and offers a wide range of recreational facilities and Sean Moore Park is opposite the site and it has walking routes and playing fields and is connected to the coastal walk and Sandymount Strand.
- Provision for public open space with an area of 390 square metres, exceeding the ten percent CDP requirement for Z1 zoned lands (385 square metres) is provided and is compliant with the development plan requirement. (Section 16.3.4 of the CDP refers.) The choice of public open space in the area is expanded by the proposed a courtyard with ornamental planting, seating and a water feature. The public are ‘invited’ into the space from the road by the widened entrance with signage and seating that is clearly visible from Church Avenue. The space is accessible from the public road and provides for amenity, direct access and privacy of the residents. There is passive surveillance from the apartments and a gated entrance that can be closed off at night time ensuring security.

- Section 16.3.4 of the CDP allows for a development contribution to be paid in lieu of open space provision if the site configuration is too small or inappropriate. The applicant is willing to pay a levy in lieu of the public open space if Condition No 3 is omitted. The proposed public open space would be reverted to communal open space for the benefit of the residents of the proposed development.
- The appeal submission also includes an outline and commentary on the application, site and environs and planning context.

## 6.2. Third Party Appeal by St Mathew's National School.

6.2.1. An appeal was received from TODD Architects on behalf of the School's Board of Management on 16<sup>th</sup> July 2018 in which it is stated the enrolment is 240 pupils and that there are eighteen staff at the school which is on a confined site where playground space is at a premium. It is also stated that the principle of residential development on site is supported but there are objections to the current proposal. In the concluding remarks it is submitted that if permission is to be granted, Conditions for omission of the top floor level, for boundary treatment that prevents overlooking ad, for amendment to ensure that any loss of daylight to windows in the affected rooms in the school are within the limitations in BRE guidelines.

6.2.2. According to the appeal:

- There are serious concerns about changes to the water table attributable to the proposed development. There have been problems with water ponding within the outdoor play areas which the school as installed an underground unit to address run-off.
- The scale, layout and bulk along with visual impact significantly diminishes the amenity value of the school internally and externally.
- The proposed development, from units on all floors, and their balconies would directly overlook the school classrooms and external play areas. The footprint is nine metres from the edge of the nine metres from the boundary. For developments of three storeys and above a minimum fifteen metres is required to allow for a thirty metres' face to face distance between opposite

windows. An analysis has been carried out, details of which are attached to the appeal according to which a ten metres height translucent screen would be required to prevent direct overlooking at the top level and eight metres if the top floor is omitted. These matters were not adequately taken into consideration by the planning authority and they are of special importance having regard to child protection issues. Tree planting is not sufficient and may not be practicable on some parts of the boundary due to the underpinning works that will be required. If permission is granted, it is requested that a boundary of sufficient height to supplement landscaping and planting proposals be required, by condition.

- The scale of the building and proximity to the school would be overbearing in visual impact on the school site. Omission of the top floor of the five-storey block and omission of the three-storey block beside the school boundary in entirety, is necessary.
- Apart from impact on the school which plays an important role in the community, the residential amenities of several residential properties would be severely affected.
- There is loss of daylight to the windows at the school although the results of the submitted 'Ethos' report indicated a slight decrease in vertical sky component on classroom 02. The calculations have not been validated and it is to be assumed the model used to generate the results is an accurate representation of site and environs. As there is no validation, reliance on the assumptions documents by Ethos in the document prepared by BRE is questionable. Attached to the appeal is as floor plan in which the classroom 02 and its windows are identified, allowing for proper calculation of lighting diminution.

### **6.3. Third Party Appeal by Aoife McDonald and Stephen Gargan and other residents.**

- 6.3.1. An appeal was received from McCabe Durney on their behalf of the Appellant on 16<sup>th</sup> July, 2018. It contains a detailed outline of the planning background and context, including a policy review for the site and site environs. According to the appeal grounds:

- The proposed development is overdevelopment due to excessive height, scale, height and mass and is not justified. The plot ratio of 2.2 exceeds the 0.5-2.0 plot ratio provided for in the CDP (section 16.5). The height of 18.7 metres exceeds the 16 metres provided for in the CDP and, it breaches height restrictions and materially contravenes the policies in section 7.8 of the CDP where local prevailing height is referenced. The block is completely at odds with the two-storey height and character of the development in the area.
- The scale and massing are also at odds with the two storey and small number of one and three storey dwellings in the surrounding 'Z1' and 'Z2' zoned lands where height is capped. It would be visually overbearing and out of scale and this is clear in the submitted photomontages. The proposed development material contravenes building heights limits in the outer city, Objective SC 16 on taller buildings' locations and SC 18 on disruption of the skyline in the CDP. The appeal submission contains visual images to demonstrate the case that there is severe variance with prevailing heights and scales, reference being made to the Bath Street Conservation Area in particular.
- The submitted design strategy did not include consideration of heights other than the five-storey height with the step downs at the north, west and south boundaries. There is no justification in the design strategy for the breach of the height policies for Outer Suburbs that is capped at sixteen metres.
- The site coverage is 50 percent whereas a range of 45-60 percent is provided for in the CDP. The exceedance of the standards by two of these three indicators (Height, plot ratio and site coverage) breaches the zoning objective notwithstanding the need to achieve a more compact city and the arguments as to economic viability, especially taking the cost of the basement construction into account. It is contrary to the 'Z1' zoning objective.
- With regard to the 'Z2' zoned lands in the surrounding area and to the adjoining site to the north east on Church Avenue, reference is made to the remarks in the Planner's report on the development permitted under P. A. Reg. Ref.6704/07 on design, scale, bulk and massing being injurious to the visual amenities of the area. The current CDP height policies are unchanged.

- It is a monolithic block with a square extension at the rear, lacks rhythm and interest in materials. 89 x 18.7 metres at variance with the narrow plots. And grain. New development should comply with the prevailing grain; no character and uninterrupted block at a dominant corner and significant frontage on Beach Road visible towards the north and the west. A landmark building is required.
- The proposed development will seriously injure the residential amenities of the surrounding dwellings and the school due to height, daylight loss and privacy loss. The submitted daylight and sunlight analysis shows loss of light to all units especially Nos. 7 and 9 Church Avenue, 34 Cranfield Place and the school. Dual aspect rooms do not justify this impact and no account is taken of natural north lighting which is more effective natural lighting. Sunlight and daylight loss is not acceptable.
- Privacy is affected on Church Avenue and Cranfield Place and St. Mathew's school due to the balconies on the south west corner which lack recess from the boundary. The northern balconies will overlook No 2 Church Avenue and there are direct views to the playground and garden at No 36 Cranfield Place.
- The proposed development will obstruct legibility and important views which are provided for in Chapter 16 of the CDP (Policy G118). The Aviva Stadium which gives legibility to urban structure and signals Irishtown and which is framed westwards from Sean Moore Road, a gateway to the city and an important thoroughfare for the increasing number of cruise ships. A high architectural quality and design is therefore essential for landmark site which will frame the view. Views to St Mathews Church, a recorded monument and a protected structure, from Sean Moore Park and Beach Road will be obstructed. The current proposal is contrary to Policy S7 of the CDP. (Photo images are provided.)
- It is CDP Policy to facilitate and reserve lands for expansion of St. Mathew's School but it has been unsuccessful in seeking to extend its premises. The proposed development would generate demand for school places, but the applicant did not investigate availability of school spaces and the community and there is no justification for exclusion of a creche in the social and

community infrastructure audit provided. This contravenes the requirement for provision of a creche for developments exceeding 75 units according to appendix 13 of the CDP.

- The proposed tall building would prejudice further development eastwards and upwards or redevelopment at the site of St Mathews.
- There is a large deficit of cycle spaces in that 149 spaces, (one space per bedroom) is required according to the Apartment Design Guidelines, 2018.
- There is no construction management plan available with an assessment of vibration so there is no guarantee about stability of adjoining properties. The distance between the basement and boundary wall with No 7 Church Avenue is small.
- The location of the vehicular access ramp, (on Beach Road) conflicts with existing available perpendicular public parking spaces, (outside the redline application boundary) which are not accurately represented in the application drawings. The loss of these spaces is unacceptable.
- The applicant is likely to reconfigure the waste storage space in the basement. It would be permanently relocated to the external space designated to be used only on collection days it will adversely affect the residential amenities of the property at 36 Cranfield Place. Internal storage only is acceptable. Permission was refused for retention of the existing screened waste storage under P. A. Reg. Ref. 3253/00 because of proximity to and adverse impact on the amenities of 36 Cranfield Place.
- The assertion in the flood risk assessment that consolidation of the city is a greater need than prevention of increases in flooding risk elsewhere is not acceptable. The area is subject to tidal flooding and the need to include mitigation measures for the basement is recognition of this problem. No assessment was undertaken in connection with the application and no evidence that increased flood risk to adjoining property will not occur. The ground quality has not been investigated. Beach Road and the adjoining footpath at + 2.580 OD and Beach road have been flooded.

- A construction management plan should be prepared in consultation with the residents and it should include stringent measures for prevention of impact on adjoining properties. Dust should be monitored during construction. Acoustic barriers are required. Remediation of the ground is required as the site is an existing petrol station.

#### **6.4. Third Party Appeal by Jim and Colm McBride, Jacinta Tighe, and Pauleen Keenan. Nos 7, 8 and 9 Church Avenue.**

6.4.1. An appeal was received from Marston Planning on behalf of the appellant party, occupants of three infill properties of relatively recent construction, which adjoin the north western boundary of the application site at Church Avenue. (P. A. Reg. Ref. 3520/13 refers.) It is submitted that the assessment and decision on the application by the planning authority is flawed, that the further information submission proposals do not address deficiencies and it is requested that permission be refused.

According to the appeal:

- Residential amenities of the adjoining appellant properties will be adversely affected, and this is also in conflict with the zoning objective: The scale and height and proximity are overbearing and is excessive. Overshadowing will occur, and balconies will overlook the appellant properties. The requirements of Condition No 3 do not address the concerns.
- The block would be visually over dominant, overbearing and obtrusive in views from the Appellant party's properties, extending three stories above and appearing as five storey (16 metres) to the south and east of the appellant properties. The setback sought by the planning authority, of the northern elevation is an improvement which it is requested should be regained if permission is granted.
- The three houses face east towards the northern end of the site and have extensive glazing for the principle rooms and rear gardens that are restricted in length and which face west. There is an excellent aspect to the front of the properties.

- There would be serious traffic hazard if the development is permitted. It is located at the overly busy junction at the main link and junction of the East Link Bridge, a strategic road artery within the city. Congestion is heightened and restricted capacity on Church Avenue Bath Street and the level of traffic in the area.

## 6.5. Applicant Response

- 6.5.1. A submission was received from the applicant's agent, Tom Philips and Associates on 15<sup>th</sup> August, 2018 which was prepared in association with John Fleming Architects, Punch Consulting, Ethos Engineering, BRE, and Ait Urbanism and Landscape. Included are a revised External Skylight and Daylight Analysis Report (August 2018) and accompanying statement from BRE, Drawings indicating Alternative Options for the proposed design and details of possible alternative tree planting on boundaries are also included.
- 6.5.2. It is submitted that the proposed development as indicated in the further information submission, subject to removal of condition No 3 as sought in the first party appeal provides for the proper planning and sustainable development of the area. The submission includes an outline of the location and planning context and an overview of the scheme as shown in the further information submission and an alternative option for the scheme for consideration if the Board considers alteration to the northern end of the proposed block necessary. It is stated that the applicant, if necessary would be willing to comply with a condition providing for modification of the proposed development in accordance with the alternative option. Outline summaries of the alternative option for the proposed development and the response to the three third party appeals follow.
- 6.5.3. The alternative option.
- The alternative scheme provides for a public open space area of 200 square metres between the development and Church Avenue, with the remainder of the public open space located within the northern courtyard.
  - Omission of four apartments, one each on the ground, first, second and third floors and revisions to the landscaping is proposed in the alternative option which alters the relationship with Nos 7-9 Church Avenue and reflects Condition No 3 attached to the planning authority decision.



#### 6.5.4. Skylight and Daylight.

- The increased setback, (provided for in the alternative option) from the northern boundary which is assessed by Ethos Engineering (August,2018) provides for a Vertical Sky Component, (VSC) greater than 27% for the master bedroom and sitting room which meets the BRE recommendations.

(A revised daylight and sunlight analysis and sketches indicating the design intent are included.) However, it reaffirmed that it is also demonstrated that the proposed scheme in the further information proposal meet BRE recommendations for sunlight for all windows and open space and that there are only a small number of receptors where there are impacts on the VSC.

- With regard to height, scale and mass:
  - The proposed development reflects the site, the surroundings and policy context. The height is consistent with CDP standards which allow for a height to sixteen metres, (exclusive of plant at roof level) for commercial and residential use in the area. The ground level from a high point at the southern end towards the northern end is the baseline for building height measurements taken from the adjoining Beach Road footpath. The reference to 18.77. OD in one of the appeals should be disregarded. The plant is setback, is not visually obtrusive and with the parapet line there is a visual feature to Beach Road views.
  - Flexibility, to facilitate optimal use of the capacity of sites in urban areas close to transport services and employment, is allowed for in the Apartment Guidelines. (S2.24 refers)
  - The existing buildings do not conform to the grain and design of the environment and the interface with the public realm does not conform to boundaries and building lines. The proposed modern residential development: reflects the urban grain with a broken-up length to the front façade; creates vertical emphasis and a strong building line to Beach Road; transitions in scale to adjoining development with the setbacks at the edges and, benefits from good landscaping and planting.

- The application made in 2008, when the 2005 CDP was extant, (referred to in one of appeals for the apartment scheme on the site of Nos 7-9 Church Avenue) has no bearing on the current proposal for the appeal site which is five times larger and, at the Beach Road Junction.
- The existing non-conforming use does not contribute to residential amenity at Church Avenue whereas the proposed development introduces soft landscaping and plating in the intervening space. The rear block will not be visible from the Church Avenue houses No 9 having a blank elevation facing the site and Nos 7 and 8 do not overlook the site. The propped development benefits the school site and it is not overbearing. Five storey buildings close to lower buildings are not unusual in suburban areas. The design responds to the surrounding environment and it is fully compliant with the CDP's development plan standards including plot ratio, site coverage and building height.

#### 6.5.5. Overlooking of St. Mathew's School:

- The site is zoned for residential use and it involves natural surveillance of the school grounds. This is reasonable because natural surveillance of play areas in schemes is encouraged in the Apartment Guidelines, 2018. There is no statutory guidance that precludes overlooking of schools or provides for sterilisation around schools especially in urban areas. The school is overlooked by existing houses. There is screening provision, balconies are most likely to be used in the evenings and weekends.
- The claim that boundary would be raised up to eight metres in height would have negative impact on visual and residential amenity and is not acceptable.

However, to mitigate the concerns about overlooking of the school, the applicant proposes additional screen planting to mitigate the appellant concerns which includes use of alternative species (*Carpinus betulus*) with a reduced spacing distance and a rootballed tree, with a raised planter to mitigate the gap between the basement and boundary. In addition, the applicant is willing to accept a condition with requirement for opaque glass panels to be fitted to the balconies at the upper floors which face the school.

6.5.6. Overlooking of No. 2 Church Avenue:

- There is no significant alteration to the level of privacy at No 2 Church Avenue which is no longer opposite the site, due to the setback shown in the further information submission from the north west boundary and the balconies are secondary bedroom balconies. The third and fourth floor balconies wrap around the building to give views of the park.

6.5.7. Overlooking of Nos. 7 – 9 Church Avenue:

- Separation distances were increased in the further information submission and no living room windows face the boundary up to third floor level with the upper floors being setback by a further 3.5 metres and no external accessible space or balconies face the boundary. There are no views from the rear towards No 9 and overall, there are mutual levels of privacy for these properties and the apartment development.

6.5.8. Relationship with Views of Interest (St Mathew's Church and Aviva Stadium)

- Views to these structures are not protected in the CDP. The site does not facilitate unimpeded views of them as is evident in the photomontages submitted. Better views are available from alternative locations. Objective G118 of the CDP is irrelevant.

6.5.9. Community Infrastructure.

- It cannot be assumed that the development potential for the school, where there is already established precedent for a two-storey development is constrained. There is no reservation for school use on any of the site lands. It is not accepted that the proposed development contravenes the CDP. Objectives SN10 and SN 11 refer.

6.5.10. Childcare facilities audit.

- A rationale in accordance with the recognised methodology in the Childcare Guidelines. 2001, was provided in the application submission indicating an estimate that forty units would require childcare which is well below the 75unit threshold.

#### 6.5.11. Cycle Parking.

- The lodgement of the application precedes the adoption of the Apartment Guidelines, 2018. The specific planning policy requirement (SPPRs) therein have no reference to cycle parking. In Section 4.17 cycle parking standards are left to the discretion of the planning authority. Ninety spaces at basement level and eight at surface level is compliant with the SPPRs in the Apartment Guidelines, 2018.

#### 6.5.12. Roads and Traffic.

- It is demonstrated in the TTA that the proposed development will result in a significant decrease in trip generation and there is a safer and simpler interface with the local road network relative to the trip generation by the filling station, car showroom and services outlet and retail unit with two access/egress points and a gated junction on Church Avenue which is to be closed. The replacement access/egress point is one standard two-way junction with 'left in' and 'left out' arrangement and appropriate signage.
- The current perpendicular parking arrangement on the side of the road is a significant traffic hazard involving reversal into unsighted trafficked lanes on an unmarked road. There is no formal parking so requirements for an offset/ or retention of parking or sightlines are not relevant. This simplification and rationalisation of arrangements which reduces traffic hazard is acceptable to the planning authority.
- The vehicular access ramp is circa three metres closer to Cranfield Place than that of the filling station. Visibility to the right has been assessed and is confirmed as adequate. Drawing 172387-SK04\_PL0 refers. A reasonable radius and gradient for the ramp from Beach Road for the basement is achieved.

#### 6.5.13. Construction Management.

- A construction management plan is incorporated in the section 2.7 of the outline construction and demolition Waste Management Plan both of which while outline in nature provides details on all issues including noise and vibration matters. Following nomination of a contractor details will be further

developed and will address the requirements of Condition Nos 5, 6 and 10 attached to the planning authority decision.

#### 6.5.14. Proximity to Other Structures.

- Best practice methods will be followed for all construction works including piling and bulk excavations. Noise control will be managed and operated in accordance with all the requirements and standards in BS 5228-1:2009 Standards and the vibration will not exceed values set out in section. 2.8.2 of the Outline Construction and Demolition Waste Management Plan. Any works involving vibration greater than that not likely to cause cosmetic damage will be avoided. Various means of vibration and settlement control during the piling process can be employed and agreed with the planning authority. The precise works and methodology will be fully detailed following appointment of the contractor. Plant and equipment will be low noise generating, distances away from sensitive points will be selected and barriers erected where necessary. Otherwise, existing damage limits will be reduced. A guide wall may be constructed from 300 mm concrete into the shape of the piles to prevent piling camber from moving during the process and the piling does not move. A rotary piling technique can be used. Noise emissions will slightly impact nearby property during the temporary period of the project but, with control measures in place, they will not be excessive.
- Dilapidation records will be documented, prior to, at intervals during and post construction. The school and attenuation within its site are setback back from the basement line. No 7 Church Avenue is 1.3 metres from the basement's side face. A double basement recently constructed in Earlsfort Terrace had an offset of 450 mm.
- There are no grounds for the claim that the outdoor waste collection area would be used for waste storage (rather than collection) so that cycle parking can be provided in the basement. Areas for waste storage are identified in the Operational Waste Management Plan.
- Appropriate construction methodology will be employed to ensure no negative impact on adjoining property, including attenuated drainage.

#### 6.5.15. Flooding Risk.

- The contention on one of the appeals as to fluvial, coastal and pluvial flooding risk attributable to the proposed development is rejected as being incorrect. A further detailed submission in response to the appeal, which supplements the documentation and SSFRA prepared by Punch Consulting at application stage which accords with “The Planning System and Flood Risk Management Guidelines, (2009) is included. The site location is within the extents of a Flood Zone B area for fluvial and coastal flooding.
- No adverse impacts on the water table, as contended in an appeal will occur as it will normalise following construction with water reverting to the current state at the immediate environs and site although there is influence from tidal variation due to the coastal location. Contentions about impact on attenuation system in adjoining property are unrelated to flooding.
- Contentions as to impact on property value is not accepted as there is no evidence to support the claim in the appeals.

#### 6.6. Planning Authority Response

6.6.1. There is no submission from the planning authority on file.

#### 6.7. Observations

6.7.1. **Mary and Leonard Harnett, 30 Cranfield Place.** Mr and Ms Harnett’s property is to the south west of the appeal site. In a submission lodged on their own behalf on 31<sup>st</sup> July, they request that permission be refused or, failing that, the basement should be omitted, and that the developer be required to undertake structural surveys of the properties on Cranfield Place before and after construction. They state that:

- The proposed development contravenes the zoning objective.
- The height, size and density are excessive and are inappropriate for the location and will be overbearing.
- Classrooms and playground space at St Mathew’s School will be overlooked.

- Excavation, to provide for a basement will cause structural damage to existing houses on Cranfield Place which were built in the 1930s. The basement could cause flooding on Cranfield Place which is reclaimed land and is tidal. Flow back out to the sea, at high tide, from under the houses would be obstructed.
- There is national policy for reductions on provision of carparking in new apartment developments where there is good public transport.
- Beach Road is seriously congested and there are serious traffic problems on Cranfield Place, (a narrow one-way street with the school) and Church Avenue. Vehicles exiting the development either turn right down Cranfield Place or left onto Beach Avenue to Church Avenue. Extra hazard would be caused especially at school arrival time at St. Mathews and at Star of the Sea school on Leahy Terrace.
- The ground floor substation is a potential health and safety hazard.
- The existing sewage and mains water system was not designed for the additional large apartment development.
- The construction stage will be very disruptive for residents and the operation of the school.

6.7.2. **Paul Tierney, 34 Cranfield Place.** Mr. Tierney's property is located at the corner of Beach Road and Cranfield Place at the southern end of the appeal site. In a submission lodged on his own behalf on 31<sup>st</sup> July, Mr. Tierney states that:

- The size and density are excessive and are inappropriate for the area.
- Sunlight and daylight access at Mr. Tierney's property and St. Mathew's School would be seriously affected.
- It is essential that a Construction Management Plan, in consultation with the residents be prepared.
- There is concern about structural stability and vermin.

## 6.8. Further Responses

### 6.8.1. Ms McDonnell and Mr. Gargan, Third Party Appellant.

In observations on the first party appeal received from McCabe Durney on their behalf on 15<sup>th</sup> August, 2018, it is requested, in the event that permission is granted, that Condition No 3, as attached by the planning authority be retained.

### 6.8.2. Jim and Colm McBride, Jacinta Tighe, and Pauleen Keenan. Nos 7, 8 and 9 Church Avenue, Third Party Appellant.

6.8.3. A further submission was received from Marston Planning on behalf of the appellant party on 10<sup>th</sup> September, 2018 with observations on the first party response to the appeal. The request in the appeal that permission be refused is reiterated in the submission according to which:

- The concerns of the appellant are not addressed in the submission and the appeal claims as to adverse impact on amenities of the residential properties, especially to the east and north which is in contravention of the zoning objective remain unchanged.
- The submitted “BRE” document and Ethos report demonstrates adverse impact on No 9 Church Avenue to a totally unacceptable degree. The statement in the submission as to poor positioning of this dwelling on the site is irrelevant and does not justify the adverse impact of the proposed development.
- There is a high standard of privacy to the rear gardens of the three houses at present, but it is not clear as to how the alternative design option proposed by the applicant would affect this privacy.
- The inclusion of Condition No 3 is welcome but the omissions would not overcome the overbearing impact on the appellant properties. The balconies overlook No 9 and the ESB substation adjoining the boundary is not relocated. The overbearing impact, (in terms of scale, massing and general dominant effect) is totally ignored in the submission.



- The existing non-conforming use is an irrelevant consideration. The proposed development would not deliver the planning gain expected from removal of a non-conforming use.
- The effect on amenities of the excessive density and sixteen metres height are compounded by the massing and bulk.
- No coherent reasoning is provided to show that the clear traffic hazard at the busy artery junction at Beach Road and the East Link Bridge has been provided.

## 7.0 Assessment

7.1. There are three third party appeals, two observer submissions and a first party appeal against Condition No 3 of the planning authority decision to grant permission on file. Due to overlap in the issues raised and addressed in the appeals and supplementary submissions, the issues central to the determination of the decision are identified and considered below under the following broad subcategories.

Nature and intensity of land-use.

Compatibility and integration into the established urban landscape.

Public Open Space Provision and the Public Realm

Impact on Amenities and Value of surrounding residential properties.

Impact on St. Mathew's School

Residential Quality Standards

Childcare facilities

Waste Management

Trip Generation and Capacity of the Local Road Network

Traffic Safety and Convenience at the Entrance.

Vehicular and Cycle Parking.

Flood Risk

Construction and Demolition Management

Environmental Impact Assessment Screening and,

Appropriate Assessment Screening.

**7.2. Nature and intensity of land-use.**

7.3. The existing use on the site is a long established non-conforming use, the current occupant, (Micheal Grant Motors) and the filling station, (Maxol) having replaced a former long established similar business operation on the site. The proposed apartment scheme development is fully consistent with the zoning objective Z1: *'to protect, provide for and improve residential amenities'* according to which a residential development is a permissible use. Overall, the proposed development is also consistent with National Planning Framework in February 2018 according to which fifty percent of new dwelling provision should be within the existing built up serviced areas. The location is within an inner suburban mature and predominantly residential, serviced area close to good transportation corridors and links, the city centre and amenities higher density residential development is encouraged. National, regional and local strategic policy encourages high density and high intensity development at locations such as the application site, as it is in the interest of consolidation of the city, contains potential for urban sprawl and is in the interests of sustainable development. However, the proposed development's acceptability is subject to consideration as to the potential effect on the existing environment and the residential amenities of existing properties in the area and all other planning parameters as considered below.

**7.4. Compatibility and integration into the established urban landscape.**

7.4.1. The site, owing to the size at 3,850 square metres, the location on a main road, classified as a Regional Route between the city and outer suburbs and, between two junctions at the edge of a mature residential area rather than midway along roads with established residential development has capacity to provide for a 'stand-alone' development with significant density or intensity and distinct characteristics in terms of scale, mass and form, height and design.

7.5. The proposed apartment block's sixteen metres maximum height, exclusive of plant is not in conflict with the current maximum limit for residential development in urban areas in the CDP and is not in conflict with the Apartment Guidelines (2018) which does not include specific criteria. It is noted that the measurements are taken from a level at the midpoint on the Beach Road footpath. The claim as to an eighteen-metre height in one of the appeals does not appear to be accurate. The height is

therefore in principle acceptable and it on planning grounds should otherwise be considered on its own merits.

- 7.6. Having regard to CDP policies and objectives, the references in one of the appeals as to the necessity to avoid obstruction of views towards landmark or statement feature structures within the cityscape by new development is accepted but there are no specific objectives for protected views and prospects across the site. To this end, the claim in the submission of the applicant that the Aviva Stadium and St Mathew's Church would be unaffected in views from the public realm by development on the application site is accepted. In this regard omission of upper floors is considered unwarranted.
- 7.7. It is agreed that the block which comprises a main block with an eighty eight metres' long frontage onto Beach Road, with upper floor setbacks, linked to a smaller, lower height square shaped block at the rear north west side, adjacent to the boundary with St Mathew's School and a cluster of three infill dwellings at Church Avenue is considerable in mass and form. However, it is agreed that the revised Beach Road façade design shown in the further information submission is satisfactory. It provides for a rhythm featuring breaks to provide for vertical emphasis, opaque to solid ratios, and the setbacks, as provided for in the further information submission and in 'alternative option' along with the selection of materials renders the large block appropriate and acceptable in views towards it from the east, north and south within the road network and park and amenity areas within the public realm. It does not give rise to adverse visual impact when viewed in relation to the adjoining residential properties to the south.
- 7.8. At the northern frontage onto Church Avenue, the capacity to accept the development is restricted but it is considered that the increased setback, proposed in the 'Alternative Option' included in the response to the Appeal' ameliorates this effect satisfactorily. To this end, the omission of the four units, (required under Condition No 3 of the decision to grant permission) one at ground, first, second and third floors is warranted. The 'alternative option' addresses some concerns about open space provision raised by the planning officer, but also, the setback overcomes the prominence of the northern end of the block relative to the adjoining development on Church Avenue evident in the further information submission. The 'alternative option' is clearly distinct, separate and reads as a compatible stand a-alone structure

at the end of Church Avenue achieving a positive and unobtrusive wrap around development at the corner. The scale and height, and setback can be accommodated in the Church Avenue streetscape in views from proximate and more distant vantage points from the north east and west.

#### **7.9. Public Open Space and Public Realm.**

- 7.9.1. The first party appeal is against the requirements of Condition No 3 but if the appeal is rejected, there are proposals for an 'alternative option' in the response to the appeals address the requirements of the condition. It is agreed with the planning officer that the proposed allocation of the courtyard space within the scheme as public open space to fulfil the CDP requirements is not practicable as a functional public amenity space but is appropriate for allocation as communal open space. It is considered that the proposals referenced in the first party appeal for widening of the entrance and signage that would encourage the public to access the designated courtyard space would be ineffective or marginally effective in maximising its use as a public amenity space by members of the public.
- 7.9.2. On the other hand, the proposals within the 'alternative option' which is consistent with the requirements of Condition No 3 of the planning authority decision provides for an area of quality landscaping and amenity space between the block and the Church Avenue frontage which has good visual linkage and recreational amenity potential. It is an appropriate solution. Furthermore, the proposed relocation of the substation from the side of the proposed access to the ramp at the southern end of the site to the northern frontage is acceptable.
- 7.9.3. The courtyard space would successfully function as communal open space contributing to the quality of the scheme and the potential residential amenities of the future occupants. Resolution of the final details, including landscaping and public access can be dealt with by compliance with a condition reflecting the requirements of Condition No 3 attached to the planning authority decision if permission is granted. Sufficient permeability is achieved by way of pedestrian access points from the north and eastern site frontage and routes through the site for residents.

#### **7.10. Impact on amenities and value of surrounding residential properties.**

- 7.10.1. The proposed insertion of a substantial sized and high-density apartment development, in place of the existing development is a radical departure from the

current scenario within the environs of existing residential development and the adjoining primary school. The effect on the properties on Cranfield Place followed by the effect on properties on Church Avenue are considered below.

- 7.10.2. The Cranfield Place properties are positioned at a significant distance to the south west of the footprint of the proposed apartment block which is to the north and north east. The appellant party's property, (No 34) adjoins the south east corner and the Observer Party's property (No 30) is a short distance to the south west.
- 7.10.3. The entrance and access/egress ramp for the proposed development is located within the area adjacent to the Cranfield Place properties. The relocation of the proposed ESB substation to the northern site frontage indicated in the further information is submission is noted and considered an acceptable and the resultant repositioning of the surface level waste collection area at the south side of the ramp is considered reasonable. Contentions as to this designated collection area being used as a surface level storage space for refuse at operational stage, affecting residential amenities at adjoining properties instead of the dedicated area in the basement specified in the waste management plan are not accepted.
- 7.10.4. However, for the purposes of clarity, should permission be granted, an appropriate condition providing for adherence to the proposed arrangements which provide for clarity and which would be enforceable can be included. The acoustic screening incorporated in the proposal to mitigate noise emanation from use of the ramp is an effective means for amelioration of potential noise impact on the amenities of the Cranfield Place properties.
- 7.10.5. The Cranfield Place properties would not be subject to adverse overbearing impact from the block owing to the orientation relative to the Cranfield Place properties, footprint distance from the boundaries and the setbacks at the upper levels. The external elevations, in so far as they are prominent features in views from these properties are of interest in detail and are relatively positive in visual impact on these properties.
- 7.10.6. There is no potential for an unacceptable degree of overlooking of the Cranfield Place properties from windows of balconies, none of which are directly opposite these properties. There is no question of potential for overlooking from the green roof

space in that there is to be access for residents for amenity purposes. Access would be confined to maintenance purposes.

7.10.7. It is also considered that it has been satisfactorily demonstrated in final version of the Ethos sunlight and daylight study, in which the 'alternative option' is assessed and the methodology for which is endorsed by BRE that loss of daylight is within BRE limitations, and that the standards for VSC are well in excess of the recommended minimum standards within the BRE Guidance.

7.10.8. The two storey, relatively recently constructed properties at Nos 7-9 Church Avenue to the west side of the site share a gated access on the Church Avenue frontage and are adjacent to the north west boundary of the application site. The claim that restrictions on height and number of floor levels which were at issue in consideration of a prior application for the adjoining site, dating from 2005 should be applied to the current proposal is not accepted. The applications relate to different, albeit adjoining sites and there have been significant changes in strategic planning policies, context and standards in the intervening period. As previously stated the height of the proposed block is in accordance with current CDP height policies.

7.10.9. The proposals in the the 'alternative option' comprise significant modifications to address some concerns of the planning officer about the presentation of the northern end of the block, landscaping and public open space provision. As a result, the presentation of the block at the corner of Beach Road and Church Avenue and to the Church Avenue frontage, is high quality and relatively low in profile and distinct but complementary to the existing residential development on Church Avenue. To this end the landscaping in the foreground of the block, due to the setback from the frontage, additional setbacks at the upper levels and separation distances from the boundaries and footprints of Nos 7- 9 Church Avenue render the proposed development compatible with this cluster of properties and the properties opposite the site on Church Avenue. It is therefore considered that there are no concerns as to impact on visual amenities and consequently, residential amenities of existing residential properties by reason of an over dominant visually obtrusive and overbearing impact or inappropriate design.

7.10.10. The fenestration and balconies shown on the elevations facing towards Nos 7-9 Church Avenue in both the revised and 'alternative option' proposals are

acceptable, having regard to the separation distances and orientation of the proposed block relative to these properties and do not give rise to potential for undue overlooking and overshadowing, As is the case throughout the proposed development, it is stated that residents will not have access to the green roof of the apartment block.. It is clearly established in the revised Sunlight and Daylight analysis for the 'Alternative Option' prepared by Ethos and accompanying statement by BRE that the VSC at these properties, where relevant exceed minimum BRE standards whereas there are some marginal reductions in attainable standards properties in the further information proposals.

7.10.11. The dwelling within Nos 1-8 Church Avenue, the terrace of nineteenth century houses set behind small front gardens facing the northern frontage of the proposed development which would have the most potential to be adversely affected by way of overdominance and overbearing impact, daylight and sunlight access and overlooking is No 2. The 'alternative option' and the revised proposals in the further information submission are both acceptable having regard to separation distances at upper floor levels, front facing windows of No 2 Church Avenue and positioning of the wrap around balconies at the upper floors towards the views to the north east.

#### **7.11. Impact on St Mathew's School**

7.11.1. Serious concern is expressed in the observer submission as to potential for adverse impact on security and safety of school pupils and the unobstructed operation of the school at construction and operational stages. It is reasonable for a construction management and construction traffic plan to ensure the safety of pupils arriving by foot and/or cycle who are vulnerable road users during their trips to and from the school premises off Cranford Place. This matter can be addressed by way of compliance with a condition following appointment of a contractor, should permission be granted.

7.11.2. Serious concern is also expressed about potential adverse effects of residential use of the proposed development by way of direct overlooking from windows and balconies directly opposite school classrooms and outdoor play areas. However, it is considered that the relationships between these two land-uses are mutually compatible and positive. There is no basis that is persuasive to justify any assumption that the privacy and security of pupils at the school would be at risk due

to inappropriate observation from the residential units that can be taken into consideration. It is also of note that no statutory planning policy or guidance has been issued that would necessitate reconsideration of a proposal for residential development adjacent to an existing school premises at which pupils in attendance would be under ongoing supervision.

7.11.3. Bearing the foregoing in mind and the concerns about adequacy of screening along the boundary with the school premises, a requirement for the developer to provide the additional screening and panelling at the additional height sought in the appeal would be unreasonable and warranted. However, adequate provision for high-quality boundary treatment to provide enclosure and privacy and amenity of the proposed apartment block, especially single aspect units facing west, adjoining the external space as well as reciprocal protection of the amenities of the school property is warranted. In this regard it is considered that the modifications to the planting scheme for the boundary between the two sites shown in the 'alternative option' is practicable, appropriate, positive and in the interests of both the school site and the proposed apartment development.

7.11.4. It is agreed that the site of the school campus is confined and restricted as is often the case with schools located within long established inner urban areas. The school site is subject to the zoning objective, 'Z1': ("*to protect provide for and improve residential amenities*") but there is no evidence of any current proposals for future residential development on this site, the potential for which would be a planning issue for consideration in connection with the current proposal. It is considered that there is no basis for the claim that the proposed development would compromise future potential for expansion and extension to the existing facilities to cater for an increased enrolment or to upgrade school facilities.

## 7.12. Residential Quality Standards.

7.12.1. It is considered that the concerns raised in the planning officer's report on the original proposal are satisfactorily addressed in the modifications in the further information submission and in the 'alternative option' in all respects with regard to layout and size of internal accommodation, aspects, number of units per lift core and private open space provision by way of balconies and communal open space provision in the central courtyard space. There is no objection to the significant



density of the development given that qualitative standards and attainable residential amenities, are satisfactory. The development benefits from the location close to coastal amenities and parks, and local facilities and services and public transport.

#### **7.13. Childcare/creche.**

7.13.1. A reasonable case has been made in the submitted childcare facilities audit to support a waiver of the requirement for provision of a creche within the developments in excess of seventy-five units. In this regard the references in the audit to the high incidence of outward commuting in the catchment, limited potential space for additional residential development are persuasive. Should it be considered that the requirement for creche facility should not be waived there is scope for adaptation of one or more apartment units within the scheme to use as a creche.

#### **7.14. Waste management.**

7.14.1. The proposed arrangements for refuse storage, internally within the basement of the structure and for separation for recycling purposes are satisfactory. It is reasonable that the waste be stored at street level for collection. The contention that the intended use of storage area in the basement would be discontinued and replaced by cycle parking resulting in continuous storage street level in one of the appeals is rejected. Subject to inclusion of a condition providing for finalisation of details of arrangements for separation and storage internally and for collection from the designated location adjacent to the vehicular entrance, and conformity with the operational waste management plan, it is considered that there is no risk of undue adverse impact on residential amenities of properties on Cranfield Place.

#### **7.15. Trip Generation and impact on capacity of local road network.**

7.15.1. The site location is within the inner urban area, close to the city centre, on the R131, a regional route of strategic significance in that it is a major east -west link incorporating the East Link bridge off the Sean Moore Road roundabout. In this regard, future proposals for the Dodder Bridge Crossing (Objective MT 031 of the CDP) that will connect Poolbeg, Ringsend and the Grand Canal Dock is of note. The results of the traffic counts provided in the TTA are noted. It is satisfactorily demonstrated in the TTA that there would be significant reduction in trip generation and turning movements by the proposed development relative to that of the existing

filing station and motor sales and services operations with direct access onto Beach Road which is unmanaged due to lack of road markings. As a result, no traffic volume and junction capacity issues directly attributable to the proposed development should arise.

#### **7.16. Traffic Safety and Convenience at the entrance.**

- 7.16.1. In addition to reductions in trip generation, the proposed replacement of the existing access arrangements with a single, two-way vehicular entrance with appropriate levels, provision for the required sightlines, road markings and signage and a 'left out' only arrangement for vehicles exiting the site, allows for significantly improved traffic management in terms of convenience and considerably reduced potential for occurrence of obstruction of existing traffic and hazard by reason of conflicting movements. It is noted that the Roads and Traffic Division has indicated satisfaction with the supplementary details, inclusive of the swept path analysis and modifications for the proposed ramp levels provided in the further information submission which meets requirement for mitigation for potential flooding risk.
- 7.16.2. Deterioration in conditions at the junction with Cranfield Place would not be at issue and it is also noted that it is indicated that refuse collections are to be scheduled to take place at off peak hours. Cycle traffic generated by the proposed development which is encouraged, should benefit from future implementation of increased cycle routes which are subject of specific CDP objectives and dedicated enhancements at junctions.

#### **7.17. Vehicular and Cycle Parking.**

- 7.17.1. The modified development in the further information submission providing for eighty-nine parking spaces inclusive of disability parking, ninety-six cycle spaces, (eight at surface level) and four motor cycle spaces is consistent with the development plan standards set out in Tables 16.1 and 16.2 for Parking Area 2 (of Areas 1,2 and 3) in which the site is located.
- 7.17.2. The observations in the supplementary Planning and Transportation report on the proposed development as to satisfaction with the quantum of parking which provides for two basement level visitor spaces and potential availability of residents' spaces when vacant is acknowledged, It is considered that if this arrangement is to be

accepted, it would be inappropriate to provide for allocation of a specific space for each residential unit within the basement.

- 7.17.3. It is noted that a considerably higher ratio of cycle spaces per dwelling or bed space is deemed essential to ensure compliance with the standards in the Apartment Guidelines in one of the appeals but the proposed quantum of cycle parking is considered appropriate and consistent with the CDP standards which were applicable when the application was prepared and lodged with the planning authority.
- 7.17.4. The internal layout at basement level for parking bays and circulation aisles including arrangements for plant and equipment is consistent with the requirements of the CDP. (section 16.3) and, in the event that it is agreed that each of the dwelling units, (to be issued with a smart/fob card) should not be allocated a specified dedicated parking space, in order to accommodate visitor parking. If this arrangement with regard to visitor parking is to be accepted, a compliance submission may be necessary to clarify undertakings for management of the basement parking facilities which excludes unwarranted third-party use is satisfactory and provides for the needs of residents and visitors.
- 7.17.5. The concerns as to lack of proposals for substitution for the loss of on street parking potential due to the arrangements for the entrance is noted. However, it is correctly pointed out in the appellant and planning authority documentation that while the road frontage is used for parking at present, there are no dedicated, managed public parking facilities. A significant proportion of the existing parking demand is potentially generated by the existing businesses on the site at present.
- 7.17.6. Use of the road way for deliveries and collections, is not ideal from the perspective of allowing for unobstructed traffic flows on the public road network. Should on site facilities, which would be desirable, be deemed essential it is likely significant modification to the site layout may be required. It is with some reservation that the proposed reliance on use of Beach Road for deliveries and collections is accepted. There is no objection to the use of Beach Road or Church Avenue for emergency vehicles access.

## 7.18. Flood Risk.

7.18.1. The site location is within the pluvial flooding plane for the River Dodder and coastal zone flood zone but not subject to groundwater flooding according to the submitted Site Specific flood risk assessment in which the available CFRAMS mapping is referenced according to which the proposed residential use is also “Highly Vulnerable”. The location within an area designated Flood Zone B and passes the justification test according to the categorisation provided for in the *Planning System and Flood Risk Management Guidelines*, (2009) According to the application the minimum finished floor level designed into the scheme is based on the Q 1000 flood level and a freeboard of 400 mm and other significant and standard comprehensive mitigation measures providing for flood defences, sealing and attenuation are designed into the scheme along with SUDS measures that will achieve surface run off at pre-development rates. The proposed development which incorporates appropriate design mitigation measures do not give rise to any undue concern as to risk of flooding.

## 7.19. Construction and Demolition Management.

7.19.1. An outline Construction Management and Demolition Waste Management Plan has been provided with the application. It's outline nature gives rise to concern for the appellant and observer parties who wish to participate in preparation of a comprehensive plan. The concerns are understandable due to the extent of excavation required to facilitate construction of the double basement level, the tidal location, the close proximity to St Mathew's School which has an attenuation system in place and to No 8 Church Avenue, existing underground storage potentially necessitating decontamination work at the site although site investigative works undertaken have established a very low environmental pollution risk, in addition to standard site clearance, and the long established urban area which is primarily in residential use.

7.19.2. It is considered that the submitted Outline Construction Management and Demolition Waste Management Plan and the response to the appeal provides sufficiently comprehensive outline information on the proposed development particularly regarding noise and vibration and below ground development with close offsets from adjoining structures to enable the proposed development to be considered. It is both

practicable and reasonable for resolution of final details to be addressed in a comprehensive Construction and Management Plan and /or incorporation of a construction traffic management plan to be put in place following appointment of a contractor. The applicant in implementation of the demolition and construction stage is subject to the requirements is also subject to separate statutory codes for compliance with minimum standards. The commitment to adherence to BS standards. (e.g. BS 5228-1:2009) proposed in the outline Construction Management and Demolition Waste Management Plan is noted.

7.19.3. In view of the foregoing, it is considered that subject to compliance with appropriate conditions, to include ongoing monitoring of management and mitigation which should be attached if permission is granted, the structural stability and safety of adjoining properties and the amenities and property value of residential properties in the vicinity should not be unduly affected during the construction stage by excavation and piling, noise and dust emissions or other construction stage impacts. . While some inconvenience and disturbance to be expected during this period, there should be assurance that the ongoing operation of the school and residential use of the adjoining dwellings should be uninterrupted.

7.19.4. There is no objection to the proposed construction traffic access and egress routes which are confined to Beach Road and Sean Moore Road and do not involve the surrounding local road network to the north west and south of the site and which, when under the control of the Contractor will be subject to the appropriate traffic management arrangements which should take into account the likelihood of significant pedestrian movement by vulnerable road users in connection with St. Mathew's School should be taken into account. The predicted quantum of trips and undertaking to avoid trips during peak hours and loading and unloading and parking within the confines of the site is noted. It is considered that attachment standardised conditions with requirements similar to those attached to the planning authority decision, is appropriate for the proposed development should permission be granted.

## **7.20. Environmental Impact Assessment Screening.**

7.20.1. Having regard to the nature 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. The need for environmental

impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

#### **7.21. Appropriate Assessment Screening.**

- 7.21.1. The application was accompanied by a screening report prepared by Openfield Ecological Services which has been consulted for the purposes of the assessment.
- 7.21.2. The site location is approximately four hundred metres to the east of the River Dodder, where water quality has improved in recent years and, approximately five hundred metres to the north west of the South Dublin Bay SAC and River Tolka SAC (0210) and SPA (4024). Several water bird species are feature of interest in the SPA. The conservation objectives for the SAC relate primarily to habits community extent structure and distribution and maintenance of the current population and distribution of bird species.
- 7.21.3. The site is within a built up urban area, is in commercial use and entirely covered in hard standing and structures and there are bunded storage facilities underground. Surface water drains to the public sewer and there are no existing attenuation facilities.
- 7.21.4. A pathway exists by way of the final discharge of wastewater and surface water to Dublin Bay following treatment at Ringsend Treatment Plant. There is no evidence that pollution though nutrient input to the waters in the Bay affects adversely the conservation objectives of the SPA or would be contrary to the Water Framework Directive objectives. Future upgrading woks at the waste treatment plant will provide for additional capacity. Additional loading at the plant generated by the proposed development at operational stage would be insignificant. At construction stage there is some potential for sediment escape which would not affect tidal and coastal habits as they are not sensitive to sediment pollution, would be temporary in nature and distant from sensitive receptors. Soil and groundwater at the site, which owing to the existing use, has previously been investigated would not be subject to future contamination. The existing environment is subject to significant lighting and noise which the proposed development would not significantly increase.
- 7.21.5. The implementation of the water framework requirements and SUDS measures for the drainage network throughout the city has resulted in improvements to water

quality and longer-term improvements to the quality and flow of storm water runoff of the city.

7.21.6. It can be concluded, owing to the scale and nature of the proposed development and to the site location in a long established serviced urban area, that no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

Given the foregoing it is recommended that the planning authority decision be upheld, and that permission be granted.

## 9.0 Reasons and Considerations

9.1. Having regard to:

- The Dublin City Development Plan 2016-2022, according to which the location is subject to the zoning objective Z1: *to protect, provide for and/or improve residential amenities:*
- Sustainable Urban Housing: Design Standards for New Apartments, (March 2018) issued by the Department of Housing Planning and Local Government.
- The National Planning Framework issued by the Department of Housing Planning and Local Government. in February 2018 in according to which new residential development in cities should be directed into locations within the existing built up serviced areas.
- The location within a well serviced, inner suburban area i close in proximity to the city centre, public transport facilities and a good local road network, and a wide range of community and social facilities,

- to the size and configuration of the site which has the capacity to accept a stand-alone development of individual character and higher density that is compatible with the established development in the area and,
- To site layout, footprint, scale, mass, height and design of the proposed block and to the internal layout and configuration of the proposed dwelling units.

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or the residential amenities and value of properties in the vicinity, would not adversely affect the safe and efficient operation and amenities of St. Mathew's School, or the development potential of the school on the site, would be acceptable in terms of traffic and pedestrian safety and convenience would not endanger public health and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be and shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further information lodged with the planning authority on 23rd May, 2018 and the further plans and particulars received by An Bord Pleanála on 15<sup>th</sup> August, 2018 except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

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

2. The layout and footprint, total number of units, dwelling mix, setback of the block from the northern boundary, amendments to the northern elevation, and extension to the public open space adjacent to the northern boundary shall be in accordance with details in the "Alternative Option Scheme" shown on Sheets 1-3 in the further plans and particulars received by the Board on 16<sup>th</sup> July, 2018. A detailed site layout, landscaping scheme, floor plans, elevation and section drawings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The remaining courtyard area shall be



designated as communal open space accessible to the occupants of the development.

**Reason:** In the interest of public, visual and residential amenities and clarity.

3. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme.

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

4. Details of the following shall be submitted to and agreed in writing with the planning authority prior to the commencement of the development
  - Materials, colours and textures of all the external finishes which should be low maintenance self finish surfaces and a panel shall be displayed on the site to facilitate the planning authority.
  - Scaled drawings for the proposed balustrades and balustrades and privacy screens for balconies to include details of materials, colours and finishes.
  - External lighting through the development

**Reason:** In the interests of visual and residential amenities of the area.

5. The following requirements shall be provided for and adhered to in the development:
  - The vehicular exit onto Beach Road shall be 'Left Turn' only for which signage and line markings shall be provided to the satisfaction of planning authority, in consultation with the Environment and Transportation Department prior to occupation of the development.
  - The basement level carparking spaces shall be for the sole use of residents, and visitor parking and shall not be sold, sublet or leased to third parties.

- Alterations to the public road and footpath including the interface between the footpath and private landing shall be in accordance with the requirements of Environment and Transportation Department.
- All repairs to the public road and services that may be required shall be carried out to the satisfaction of the planning authority at the applicant's expense.

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

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. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

7. 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

8. Communal waste storage areas within the basement shall be designed and managed in accordance with the proposals within the operational waste management plan lodged with the planning authority. Waste materials shall be transferred to the designated surface level space on the day of collection only.

**Reason:** In the interests of residential and public amenities.

9. The landscaping plan and boundary treatment, incorporating amendments to the screen planting and to the layout and to public and communal space provision provided for in the "Alternative Option" in the submission lodged with An Bord Pleanala on 15th August, 2018 and which shall be subject to agreement in writing with the planning authority prior to the commencement of the development, shall be fully implemented within the first planting season following completion of construction.

**Reason:** In the interests of the visual amenities of the area and orderly and sustainable development.

10. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

**Reason:** In the interests of visual and residential amenities.

11. Arrangements for clearance and decontamination of the site and for construction of the development shall be managed in accordance with a Construction and Waste and Construction Traffic Management Plan, based on the details in the Outline Construction and Waste Management Plan, lodged with the planning authority on 2<sup>nd</sup> January 2018 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 compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and on-site car parking facilities for site workers during construction;

(b) 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; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels. Noises levels shall be managed to accord with the standards in BS 5228: Noise Control on Construction and Open Sites Part 1 Code of Practice for Basic Information and procedures for noise control and shall not result in grounds for complaint as provided for in B.S. 4142. "Method for rating industrial noise affecting mixed residential and industrial areas"

(d) 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;

(e) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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

(g) The plan shall be 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.

**Reason:** In the interest of amenities, public health, safety and sustainable development.

12. Hours of work shall be confined to 0700 to 1900 Mondays to Fridays inclusive, excluding bank holidays and 0800 to 1400 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

**Reason:** In the interest of residential amenities of surrounding properties and clarity.

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

14. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

15. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of works to improve the junction between Carnlough Road and Cabra Road. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

16. 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.

**Jane Dennehy**  
Senior Planning Inspector  
13<sup>th</sup> November, 2018.