



An  
Bord  
Pleanála

## Inspector's Report ABP-302149-18

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<b>Development</b>	Demolition of former factory building & construction of a part 4 to part 7 storey residential / retail building, stepping down to 3 storeys to the rear, ground floor retail & car park & 70 no. apartments from first to sixth floor level. Balconies are provided for the residential apartments on the eastern, western, southern and northern elevations
<b>Location</b>	43-50, Dolphin's Barn Street, Dublin 8
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	3853/17
<b>Applicants</b>	Majick Hour Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Dominic & Eileen Moriarty Anita Kelly
<b>Site Inspection</b>	13/9/2018.
<b>Inspector</b>	Dolores McCague

## 1.0 Site Location and Description

- 1.1.1. The site is located 43-50, Dolphin's Barn Street, Dublin area of Dublin 8, within the line of the Grand Canal, and south west of the City Centre.
- 1.1.2. It consists of 8 terraced buildings along Dolphins Barn Street and a factory to the rear. The Dolphins Barn Street buildings, now vacant, range in height from two to four stories typically comprising ground floor commercial with residential on upper floors. The factory site to the rear is occupied by vacant buildings and what appears to be an electricity substation. The buildings mainly comprise a large double volume building block with saw tooth roof, divided into two spaces. The former factory site is served by an entrance at the southern end of the overall site from Dolphins Barn Street. The building on Dolphins Barn Street at the northern end of the site has access to the factory site. The remainder of the buildings on Dolphins Barn Street have no rear access and occupy sites with small rear garden/yard areas. The factory site is bounded by rear boundaries of adjoining largely residential properties.
- 1.1.3. The Coombe Hospital is located at a set back behind surface car parking, opposite the site, on the eastern side of Dolphins Barn Street, with two entrances opposite the northern and southern ends of the subject site. Emerald Square, a residential cul-de-sac road, is to the north. Reuben St, a residential road which joins Dolphins Barn Street to James's Walk and the LUAS stop at Fatima, is to the south and west. Nos 51, 51a and 52 Dolphins Barn Street are to the north, before the junction to Emerald Square. Nos 1-7 Poole Terrace front Dolphins Barn Street to the south and the imposing block C of a development known as Earl's Court, max 12 stories, forms the junction between Dolphins Barn Street and Ruben St to the south. The South Circular Road is a short distance further south.
- 1.1.4. On the date of inspection most of the frontage buildings were inaccessible due to their poor condition.
- 1.1.5. The site is given on the application form as 3332m<sup>2</sup>. The Engineering Services Report accompanying the application states an approx. site area of 0.27ha.

## 2.0 Proposed Development

- 2.1.1. The proposed development was modified during the course of the application.

- 2.1.2. As originally proposed the development was described as: the demolition of former factory building and buildings which front onto Dolphins Barn Street (43-50) which have a total floor area of 3,243.5 sq m and the construction of a part 4 to part 7 storey residential / retail building to Dolphin's Barn St, stepping down to 3 storeys to the rear, over basement, total floor area of 13,150 sq m; comprising basement and part ground floor car park, part ground floor floor retail & 70 no. apartments (41 x 1 bed, 29 x 2 bed (23 dual aspect)) as build to let accommodation, from first to sixth floor levels. Balconies to be provided for the residential apartments on the eastern, western, southern and northern elevations. Provision of 67 no. car parking spaces at basement level & 18 no. car parking spaces and 80 bike spaces at ground floor.
- 2.1.3. The proposed development was revised in response to a further information request. The main amendments comprise a significant reduction in the area at basement level from an area which occupied most of the site and required secant piled walls, to a small plant area near the centre of the site; a reduction in retail area; provision of a gym and other communal areas and an ESB substation together with additional bicycle parking; and an amended vehicular access layout at ground level; alterations to the proposed building layout at floors 2-7 provide an increase in dual aspect apartments and a decrease in single aspect north facing apartments, together with an increase in communal spaces. The amendments involve a decrease in retail area from 1405m<sup>2</sup> to 1135m<sup>2</sup> and the absence of basement storage and servicing, car parking is reduced from 85 spaces to 20 spaces, and bicycle parking is increased from 80 spaces to 144 spaces.
- 2.1.4. The application was accompanied by:
- An Archaeological Assessment prepared by Irish Archaeological Consultancy;
  - Screening for Appropriate Assessment prepared by Openfield Ecological Services;
  - A Planning Report prepared by John Spain Associates;
  - An Architectural Heritage Assessment prepared by Molloy & Associates Architects;
  - A Traffic Impact Assessment prepared by Cronin & Sutton Consulting;
  - An Engineering Services Report prepared by Cronin & Sutton Consulting;

- An Architectural Design Report prepared by Henry J Lyons Architects;
- A Daylight Impact Assessment prepared by BPG3, which includes:
 

Sunlight & daylight available to neighbouring residences and impact on neighbouring gardens, has been analysed. The results show full compliance with BRE in relation to sunlight availability to neighbouring windows. In relation to skylight available to neighbouring windows 47 of 53 points analysed meet or exceed BRE targets, in 5 cases a minor departure from the guidelines was observed and in one case a moderate departure. In the case of neighbouring outdoor spaces an impact on 5 of the 10 spaces analysed was recorded for the March equinox. These spaces were further analysed for every month of the year and the finding was that noticeable loss of sunlight is predicted for short periods in spring and autumn only;
- A Demolition Method Statement prepared by Cronin & Sutton Consulting;
- A Waste Management Statement for Demolition, Construction and Operation prepared by Cronin & Sutton Consulting;
- An Outline Construction and Construction Waste Management Plan prepared by Cronin & Sutton Consulting; and
- A Landscape Masterplan prepared by Bernard Seymour Landscape Architects.

2.1.5. The total floor area is given in the application form as 13,150m<sup>2</sup>.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The planning authority decided to grant planning permission subject to 25 conditions, including:

3) Prior to the commencement of any development works on site, the applicant shall submit, for the written consent of the Planning Authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold or rented separately for that period.

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

4) Prior to the commencement of development on site, the applicants shall submit, for the written consent of the Planning Authority, details of the Management company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

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

5) Prior to the expiration of the 15 year period for Build-to-Rent use on site, the applicant shall submit for the written consent of the Planning Authority, ownership details and management structures proposed for the continued operation of the entire development.

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

6) The development hereby permitted shall operate in accordance with the definition of Build-to-Rent developments as set out in Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (March 2018) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

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

7) Prior to the commencement of development on site, the applicants shall submit, for the written consent of the Planning Authority:

a) detailed drawings and documentation of all perimeter site boundary walls including heights and finishes proposed.

b) details of privacy screens/walls for all external communal areas and the recreation courtyard area. The boundary treatment to northern and western perimeter of this courtyard shall be a minimum of 1.8metres in height.

Reason: In the interests of the residential amenities and proper planning and sustainable development.

8) The external wall, roof and window finishes of the development hereby permitted shall be submitted for the written consent of the Planning Authority prior to commencement of works, no alterations to same will be permitted in the absence of prior written consent of the Planning Authority.

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

9) a) No signage shall be erected on foot of this permission. Signage for the retail unit and residential scheme hereby permitted shall be the subject of a separate planning application for same.

b) No free-standing advertising structures associated with the proposed development shall be erected on the adjoining public pavement or at the entrance to the retail unit.

c) All windows shall be maintained at all times, and the glazing shall be kept free of all stickers, posters and advertisements.

d) Opening hours of the retail unit hereby permitted shall not extend beyond 0700-2300 Monday-Sunday. Any alterations to same shall be subject to the prior written consent of the Planning Authority.

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

10) a) Prior to the occupation of development, a Residential Travel Plan shall be submitted for the written agreement of the Planning Authority. This shall identify specific measures aimed at encouraging sustainable modes of transport. The developer shall undertake to implement the measures outlined in the Residential Travel Plan and to ensure that future tenants of the proposed development comply with this strategy.

b) a Mobility Manager shall be appointed for the overall scheme and shall oversee and co-ordinate the preparation and implementation of the Residential Travel Plan. The () shall monitor and review the Residential Travel Plan at intervals to be agreed with Dublin City Council. The Mobility Manager shall carry out travel habit surveys of residents and identify actions for the applicant and future tenants of the development, so that progress towards meeting the targets set out in the plans can be maintained. This review may, from time to time, result in the adjustment of targets.

Reason: In the interests of traffic safety.

12) a) Unless otherwise agreed in writing with the Planning Authority access to the parking area shall be via a fob-activated automatic barrier which shall be set back a minimum of 12m from the Dolphin's Barn Street.

b) At the vehicular access/exit point to the development, measures shall be implemented, including contrasting materials, signing, and road marking, etc, to ensure that vehicles entering/leaving the development are aware that pedestrians / cyclists have priority across the site entrance and that vehicles must yield right -of-way. Details shall be agreed in writing with the Environment and Transportation Department prior to commencement of the development.

c) Prior to commencement of the development the developer shall contact the Traffic Advisory Group (TAG) to ascertain their requirements regarding the removal of pay and display parking spaces and the provision of a loading bay. Any works shall be agreed in writing and shall be carried out at the developer's expense.

d) Details of the materials proposed in public areas are required and should be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council and agreed in detail with the Road Maintenance Division.

e) Prior to commencement of the development and on appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, noise management measures and off-site disposal of construction /demolition waste.

f) Cycle parking shall be secure, conveniently located, sheltered and well lit. Key/fob access should be required to bicycle compounds. Cycle parking design shall allow both wheel and frame to be locked.

g) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

h) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

Reason: In the interests of traffic safety.

16) During any construction or commercial site clearance, excavated materials shall be damped down or otherwise treated to prevent the emission of dust from the site. All stockpiles shall be planned and sited to minimise the potential for dust nuisance.

Reason: In order to safeguard the amenities of adjoining premises, residential amenity, and the general surroundings.

22) a) No construction or site preparation work may be carried out on the site until all archaeological requirements of the City Archaeologist are complied with.

b) The project shall have an archaeological assessment (and impact assessment) of the proposed development, including all temporary and enabling works, geotechnical investigations, e.g. boreholes, engineering test pits etc, carried out for this site as soon as possible and before any site clearance / construction work commences. The assessment shall be prepared by a suitably qualified archaeologist and shall address the following issues:

- i. The archaeological and historical background of the site, to include industrial heritage.
- ii. A paper record (written, drawn, and photographic as appropriate) of any historic buildings and boundary treatments, etc.
- iii. It is recommended that a programme of test trenching be carried out within the site following demolition and clearance of the standing buildings. The testing will investigate the potential for survival of remains associated with the former post-medieval tannery yard, 18<sup>th</sup> century buildings and any pre-existing medieval activity. Test trenching should be carried out by a suitably qualified archaeologist under licence to the National Monuments Service and in consultation with the Dublin City archaeologist. Dependant on the results of the assessment further mitigation may be required, such as the preservation of any archaeological deposits that may be identified either in situ or by record (i.e. excavation) and following consultation with the National Monuments Service and the Dublin City Archaeologist.
- iv) It is recommended that the terrace of houses 43-49 Dolphin's Barn Road be subject to a written and photographic survey by a qualified historic buildings expert to assess the potential for any surviving early structural fabric. Further mitigation may arise from this survey, such as a measured survey or archaeological monitoring.



- v) It is recommended that all ground disturbances associated with the proposed development, including site investigations, be monitored by a suitably qualified archaeologist.
- c) The archaeologist shall forward their Method Statement in advance of commencement to the City Archaeologist.
- d) Where archaeological material is shown to be present, a detailed Impact Statement shall be prepared by the archaeologist which will include specific information on the location, form, size and level, (corrected to Ordnance Datum) of all foundation structures, ground beams, floor slabs, trenches for services, drains, etc. the assessment shall be prepared on the basis of a comprehensive desktop study and, where appropriate / feasible, trial trenches excavated on the site by the archaeologist and / or remote sensing. The report containing the assessment shall include adequate ground-plan and cross-sectional drawings of the site, and of the proposed development, with the location and levels (corrected to Ordnance Datum) of all trial trenches and / or bore holes clearly indicated. A comprehensive mitigation strategy shall be prepared by the consultant archaeologist and included in the archaeological assessment report.
- e) No subsurface work shall be undertaken in the absence of the archaeologist without his/her express consent. The archaeologist retained by the project to carry out the assessment shall consult with the City Archaeologist in advance regarding the procedure to be adopted in the assessment.
- f) A written and digital report (on compact disc) containing the results of the archaeological assessment shall be forwarded on completion to the City Archaeologist. The City Archaeologist (in consultation with the National Monuments Service, Department of Arts Heritage and Gaeltacht), shall determine the further archaeological resolution of the site.
- g) The developer shall comply in full with any further archaeological requirement, including archaeological monitoring, and if necessary archaeological excavation and/or the preservation in situ of archaeological remains, which may negate the facilitation of all, or part of any basement.
- h) The developer shall make provision for archaeological excavation in the project budget and timetable.

i) Before any site works commence the developer shall agree the foundation layout with the City Archaeologist.

j) Following submission of the final report to the City Archaeologist, where archaeological material is shown to be present the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City Archaeological Archive Guidelines (2008 Dublin City Council), and lodged with the Dublin City Library and Archive, 138-144 Pearse Street, Dublin 2.

Reason: In the interests of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

23) The naming and numbering of the development hereby permitted shall be submitted for the written consent of the Planning Authority prior to occupation of development. the names selected shall reflect local place names or be of local historical interest, and be in both Irish and English and installed prior to occupation.

Reason: In the interests of orderly street naming and numbering, to enhance urban legibility and to retain local place name associations.

3.1.2. The decision was in accordance with the planning recommendation.

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

#### 3.3. Planning Reports

3.3.1. There are two Planning Reports on the file, the first recommending a request for further information, which issued, includes:

Reference to the Development Plan, the Liberties LAP, the Sustainable Urban Housing Design Standards for New Apartments Guidelines and Circular PL 11/2016, Ensuring Delivery of Build-To-Rent Housing Projects.

The indicative plot ratio for a site zoned Z4 is 2.0. the plot ratio is stated as 3.2. The indicative site coverage is 89% for Z4 lands and the overalls scheme provides 95%. The City Development Plan provides that higher plot ratios may be permitted in certain circumstances such as adjoining major transport termini, to facilitate an area in need of urban renewal, to maintain existing streetscape profiles, or where the site has the benefit of a higher plot ratio. Having regard to the brownfield nature of the site and the need to create a profile on the streetscape, the proposed plot ratio and site coverage are considered acceptable at this location.

Having regard to the Z4 zoning and the Liberties LAP, the applicants have designed the scheme to incorporate a retail unit which will provide an active frontage on to Dolphins Barn Street.

Building Height – the City Plan and Liberties LAP indicate building heights of 6-8 storeys within this inner city zone. The building height of 4-7 storeys is capable of being accommodated along Dolphins Barn Street. The design responds appropriately to the provisions set out in the Liberties LAP which requires a step down of 2-3 storeys to the rear of the site. The scale of the development proposed can be accommodated at this location without detriment to the amenities of the area.

Communal Facilities - the proposal includes communal facilities with a GFA of 410 sq m at first floor to sixth floor level. This is broken into a laundry room on each of levels 1-6, a gym at levels 1-3, and a resident's lounge at level 4.

It is noted that Circular PL 11/2016, refers to the design of common areas: that the design will show that successful build-to-rent housing projects have been carefully designed, taking account of additional facilities such as centrally managed family rooms that can be booked for use for social functions, leisure facilities and common areas and secure storage for personal bulky items such as bicycles. It is considered that the space provided is insufficient to provide communal facilities as set out in guidance.

Per Circular PL 11/2016, buy to rent should seek to create a residential community with distinctive resident experiences and character, and should typically be backed up with a 24-7 management of concierge services to manage the housing project and deal with matters arising. The applicants have not provided such details or indicated a concierge facility within the plans.

Section 16.10.1 of the development plan requires that build-to-let apartment schemes (of 50+ units within 500m walking distance of centres of employment or major employment sites (Appendix 2A)) contain no more than 42%-50% of the total units in the form of one-bed or studio units. The site is located within 500m of the Ushers 'F' Electoral Division, listed as a centre of employment.

Apartment size and mix - 41 no. 1 bed and 29 no. 2 bed apartments. There are no studio apartments. All units exceed the minimum apartment standard floor areas, the majority by in excess of 10%. The mix proposed is considered acceptable. A total of

58.6% are 1 bed; while this exceeds the 45% to 50% CDP standard, it is in line with Circular PL 11/2016.

Orientation – only 23 units are dual aspect. The majority of single aspect units have east, west and south facing aspects, but 17 units are single aspect units, facing north. The applicants note that such an aspect is permitted where the proposal overlooks a substantial amenity space. At almost 25% it is considered that this level of northern, single aspect units is unacceptable.

Entrance Lobbies, Circulation and Safety - entrances and lobbies should be spacious and welcoming, illuminated and covered, highly visible from adjoining dwellings, have good natural light and ventilation, and level access. The lobby should orientate visitors and occupants, and the stairs should be prominently positioned to encourage use. The lobby and associated circulation spaces should be generous enough to allow for furniture deliveries. If the lobby gives access to the courtyard it should also be spacious with a strong visual link.

The southern residential lobby is of insufficient design to accord with the stated provisions of the development plan.

Daylight sunlight – the applicants have submitted a daylight and sunlight analysis which considered the impact of the proposed development on adjoining properties and have demonstrated compliance with BRE Guidelines for sunlight impact, while skyline impact is shown to be substantially compliant. Applicants have not submitted a daylight and sunlight analysis to demonstrate how the proposed development can comply with the BRE Guidelines. This is required in order to determine the suitability of a number of units on the northern elevation from a residential amenity perspective. The applicants should also show how the proposed communal open space can comply with BRE Guidelines.

- 3.4. Other Technical Reports
- 3.5. Engineering Department Drainage Division – conditions.
- 3.6. Roads & Traffic Planning Division – access to the site is currently provided via two existing dished entrances from Dolphin's Barn Street. Access is proposed at the south -neastern boundary in the location of existing dished entrance. Proposed access is two way serving 67 parking spaces at basement level and 18 at ground level. Access to the ground level parking is a two way road, and to the basement a

two way 1:12 ramp. A minimum 6m wide circulation aisle is shown. Arrangements raise concern regarding safety due to conflict between vehicles, and potential queuing on the public road. Applicant requested to reconsider.

- 3.7. Drawing C096-009 - a swept path analysis of access to basement and ground, indicates that the development can accommodate vehicle movements. The full extent of impact on pay and display requires clarification, as does the treatment of the access as it crosses the footpath. Drawing C096-010 proposes alterations to the adjacent road network, removal of existing parking bay to facilitate vehicular entrance, provision of a loading bay, a new signalised pedestrian crossing and new road markings, and the removal of an existing tree on Dolphin's Barn Street to facilitate the pedestrian crossing.

The proposed signalised pedestrian crossing responds to a pedestrian desire line from the south and seeks to improve the safety of both vulnerable road users and drivers accessing the Coombe Hospital and the application site. It is proposed to reposition the existing bus stop on the east side of Dolphin's Barn Street northwards to accommodate the signalised crossing, subject to agreement with Dublin Bus.

Having regard to the proximity of the existing pedestrian crossing to the north, which serves the entrance to the Coombe Hospital, and interventions required to the adjacent road network to facilitate an additional crossing, it is considered that there is no requirement for the pedestrian crossing as indicated.

Car parking – area 2, table 16.1, maximum standards, retail exceeding 1,000 GFA: 1 space per 100 sq m; residential 1 per dwelling. Max 85: 15 to serve the retail, 70 the apartments. The 85 proposed includes 4 accessible spaces. The principle of this level of car parking is accepted in order to negate against overspill on the adjoining road network.

Traffic Impact – TIA submitted, am peak 7.15 – 8.15 am, pm peak 16.00 – 17.00. Proposal represents an increase of 6.2% for the am peak and 6.8% for the pm peak, assessed for the years 2020, 2025, 2030 and 2035, representing a minor impact on the network and junctions.

Cycle parking provision accords with development plan.

Construction Management Plan to be submitted prior to commencement.

Servicing to be accommodated via the proposed loading bay on Dolphin's Barn Street. No details on type and frequency of vehicles provided.

Recommending further information.

3.8. City Archaeologist – The site is located partially within the Zone of Archaeological Constraint for the recorded monument DU0180043-01, a watercourse, which is subject to statutory protection, and located within the Zone of Archaeological Interest in the development plan. Development plan provisions cited, CHC9. Conditions / information request. See condition no. 22 of the decision.

3.9. **Further information was requested on 9 points:**

- Re single aspect units on the northern elevations, Departmental Guidelines indicate that apartments with such aspects should only be permitted where the units overlook a substantial amenity space. In this regard you are advised that the planning authority (PA) consider that 25% of units with a northern single aspect represents an overconcentration of same. Requested to reduce.
- Daylight and sunlight analysis to demonstrate how both the proposed communal open space and apartment units can comply with and exceed minimum BRE Guidelines.
- Buy to rent should seek to create a residential community with distinctive resident experiences and character and should typically be backed up with a 24-7 management of concierge services to manage the housing project and deal with matters arising. Please revise.
- Buy to rent should be carefully designed taking account of additional facilities such as centrally managed family rooms which can be booked for social occasions etc. it is considered that the communal internal space provided is insufficient to provide such communal facilities. Please revise.
- The entrance lobby areas are of insufficient size to accord with the stated provisions of the Plan which seeks to provide entrances and lobbies which are spacious and welcoming. Please revise.

- Access arrangements to car parking areas within the development raise concerns regarding safety due to conflict between vehicles and potential queuing on the public road. Reconsider these arrangements / proposed layout.
- The layout of access/egress from Dolphin's Barn Street appears to prioritise vehicles over pedestrians. As this crosses an existing footpath the applicant shall submit further details regarding levels, materials, signage and lining etc. Priority should be given to pedestrians.
- Submit drawings which clearly identify the full impact on pay and display car parking.
- Consider the potential for servicing to occur internally within the site. Provide details of the frequency and type of service vehicles.

### 3.10. Further information response

3.11. The further information response was prepared by Cronin & Sutton Consulting and includes revisions to the proposed development:

- Omission of the basement level car parking and provision of a reduced basement accommodating 275m<sup>2</sup> of plant area.
- Reduction of the car parking provision from 85 no spaces in total (67 at basement level and 18 at surface level) to 20 no parking spaces at ground level (18 allocated to residential and 2 for retail staff). Of the 18, 8 will be reserved for a car club. Access to the car parking will be closed to the public. Sufficient storage space is provided between the proposed fob activated barrier and the site boundary for 2 incoming cars to wait, without obstructing pedestrian or vehicular traffic on the footpath or public road. There will be no queuing on the public road.
- Increase in bicycle parking from 80 to 144 including, 136 for apartments and 8 external bicycle parking spaces for retail.
- Reconfiguration of the internal layout and resulting alterations to the proposed unit mix of 41 x 1 beds and 29 x 2 beds, to 39 x 1 beds and 31 x 2 beds. No change is proposed to the total number of proposed residential units (70).

- Reconfiguration of the proposed retail unit at ground floor resulting in a decrease in GFA from 1,405m<sup>2</sup> to 1,135.8m<sup>2</sup>.

- 3.11.1. Re item 6, the proposal has been modified to remove the possible conflict.
- 3.11.2. Re item 7, drawing no. C096-011 refers.
- 3.11.3. Re item 8, a total of 3 pay and display parking spaces will be removed.
- 3.11.4. Re item 9, the possibility of accommodating a large delivery vehicle within the site would result in extensive floor to ceiling heights at surface level and in significant conflict with vulnerable road users at the proposed entrance and in order to facilitate a large goods vehicle a separate egress from the site would be required. The development will be served by a large articulated vehicle 3 times a week, with small deliveries (3) occurring daily; all outside peak hours and generally before the am peak.
- 3.11.5. The reduction in retail floor area reduces servicing.
- 3.11.6. Drainage revisions are shown in drawing no. C096-002 Rev A.
- 3.11.7. Sustainable Transport and Mobility Management – to accord with the Build – to – Rent (BTR) standards in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, specifies significantly reduced car parking provision, therefore revised residential parking is proposed.

In keeping with the objective of minimising car journeys to and from the proposed development and avoiding conflicts between vehicular and pedestrian traffic it is no longer proposed to provide customer parking.

The proposal to provide a new pedestrian crossing would have required repositioning of the bus stop on the east side of Dolphins Barn Street. It is no longer proposed to provide a new pedestrian crossing.

Residential Car Club - It is proposed that a residential car club be set up within the development providing residents with the common use of a small vehicle pool based permanently within the development.

'GoCar' Ireland's largest car-sharing service has delivered several car-sharing solutions for residential and office developments in Dublin. Occupants of these



developments are registered as a specific category of GoCar user, thereby having full access to the shared vehicle pool within the development.

- 3.12. A letter of support from GoCar is attached.
- 3.13. Responses to further information request items 1, 2, 4, and 5 from Henry J Lyons Architects:
  - 3.13.1. In response to item 1 – they show sketches and refer to the fact that on a typical floor plan there were 3 apartments previously that were solely north facing. The number of solely north facing units has been reduced to 2 per floor by providing a dual aspect unit that closes off the corridor. North facing has been reduced to 18%. All floors have 2 solely north facing apartments, except for level 2 which has 3.
  - 3.13.2. In response to item 2 the BPG3 Daylight and Sunlight Analysis is referred to.
- 3.14. In response to item 3 – the main entrance to the build to rent apartments has been more clearly defined. It is situated immediately adjacent to the vehicular entrance, has been enhanced to include a wider range of facilities and to bring more life into the entry to the building. The communal facilities are dealt with under item 4.
- 3.15. A concierge office has been included, located adjacent to the entrance. It will be staffed during a set time frame around business hours.
- 3.16. A second entrance (70.4 sq m) is provided at the northernmost end of the site to offer an alternative entrance to residents.
- 3.17. In response to item 4 – the strategy for provision of communal facilities has been changed. Previously laundry / storage facilities were to be provided on most floors and a fitness studio and communal dining on the fourth floor. Now, rather than smaller areas, larger areas of higher quality are proposed. A laundry features on levels 2 and 3; at ground floor large communal spaces are provided as well as an enlarged communal dining facility on level 1 adjacent to the outdoor amenity space. There is an additional dining space on level 4. The ground floor amenities include a gym, concierge, overflow storage, residential lounge and residential communal office. These areas are described in detail, including their potential use.
- 3.18. In response to item 5 – revisions to the entrances are again described.

- 3.19. BPG3 have submitted responses to daylight and sunlight analysis to demonstrate how both the proposed communal open space and apartment units can comply with and exceed minimum BRE Guidelines.
- 3.19.1. In total 58 internal spaces at first and second levels were analysed, all reached the target of a minimum of 1% daylight factor for bedrooms and a minimum of 1.5% daylight factor for living rooms.
- 3.19.2. The sunlight assessment for communal outdoor space shows that 69% of the outdoor communal open area will have the potential to receive direct sunlight on the 21<sup>st</sup> March, comparing favourably with the BRE minimum guideline target of 50%. Concluding that the recommendations of the BRE guide and BS 8206 have been followed and that the future residents will enjoy access to good levels of daylight amenity.

### 3.20. Further Reports

- 3.21. Engineering Department Drainage Division – no change.
- 3.22. Roads & Traffic Planning Division – it is noted that the scheme has been revised to take account of the additional information request and to accord with the apartment guidelines, updated in March. These guidelines provided specific reference to build to rent.

Re item 6, revisions of relevance – omission of basement level car parking. It is noted that 2 of the 20 surface spaces will be allocated for retail staff and 18 to residential units, of which 8 will be allocated as car club spaces.

Cycle Parking proposed: 136 spaces per guidelines, which requires a minimum of 1 cycle space per bedroom and visitor cycle parking at a standard of 1 space per 2 residential units; and 8 for the retail unit.

Concerns regarding conflict between vehicle access to parking areas is eliminated. Swept path analysis demonstrates cars can circulate.

Access will be controlled by fob-activated automatic barrier. Barrier will be set back 12m from road providing sufficient storage for 2 incoming cars reducing the potential for queuing on the street.

Bin store location has the potential to give rise to conflict, however, considering the relatively low volume of traffic, it is considered acceptable.

Re item 7, a dished kerb is proposed to maintain pedestrian priority by continuing the footpath without interruption. Details should be agreed.

Re item 8, drawing no. C096-011 indicates that 3 no. pay and display parking spaces will be lost to facilitate the proposed entrance and loading bay. Parking Enforcement has concerns. The Roads & Traffic Planning Division will work with Parking Enforcement Section to minimise the impact on pay and display parking spaces. The alterations to the pay and display scheme and the provision of a loading bay, to be agreed in writing with the Traffic Advisory Group (TAG), and any works shall be carried out at the developer's expense. The previous proposals to provide a pedestrian crossing and to relocate a bus stop have now been omitted.

9) The applicant indicates that accommodating servicing within the building would result in excessive floor to ceiling heights at surface level, give rise to conflict with vulnerable road users at the entrance, and require the provision of a separate egress onto Dolphin's Barn Street. The reduction of 270sq m in retail floor area will reduce servicing requirements. The development will be served by one large articulated vehicle 3 times a week and 3 small deliveries daily, all outside peak hours. Refuse collection will take place from the street. The response is acceptable, having regard to the location, in proximity to the city centre and public transport routes, and, as the applicant indicates, per Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, where the default policy is for car parking provision to be minimised or substantially reduced, on the basis of BTR development being suitable for more central accessible locations.

A car club is proposed to support the reduced quantum of parking spaces. A condition should apply requiring a car parking management plan, to include how the remaining 10 residential spaces will be managed.

A Mobility Management Plan is proposed. A Residential Travel Plan should be conditioned.

The quantum of parking is considered acceptable.

3.22.1. Conditions recommended, see conditions no. 10 - 12 of the decision.

### 3.23. Planning

The second planning report recommending permission includes:

The applicants have now revised the scheme and taken cognisance of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, which were published following the further information request. The report lists the revisions.

Re response to item 1) – the north facing single aspect units have reduced to 13 from 17, approx. 19% of the overall scheme. Units overlook an area of communal open space at first floor level and have direct access to communal facilities. Unit size exceeds minimum standards.

Re response to item 2) daylight sunlight analysis submitted confirms that all communal space and apartment units will meet or exceed minimum standards.

Re response to item 3) the scheme has been revised and now includes 706 sq m of communal facilities. A concierge facility is proposed to be operated during business hours.

Re response to item 4) increased communal space, dispersed throughout the development with larger spaces provided at ground, first and fourth floors.

Re response to item 5) the main lobby has increased in size to include the concierge facility.

Re response to item 6, 7, 8 and 9), see Roads & Traffic Planning Division report.

It is considered that the substantial revisions proposed provide a higher standard of residential amenity for the occupants of the scheme. The principle of Build to Rent of the quality and standard now proposed accords with the apartment guidelines. The retail area has been reduced, largely as a consequence of reconfiguring at ground level to provide additional storage / communal areas. The gross floor of the residential aspect has increased from 7,638 sq m to 8,563 sq m.

Conditions to be included re legal agreement, restricting use to long term rental.

Build-to-rent is specifically for long term rental.

### 3.24. **Third Party Observations**

3.24.1. Third party observations on the file have been read and noted.

## 4.0 **Planning History**

VS-0036 – The site was placed on the Vacant Site Register.

Pre planning meetings – 6<sup>th</sup> March 2017 and 4<sup>th</sup> May 2017. Further meeting at further information stage to address the FI items and also to discuss how the scheme was to be amended to reflect the provisions of the recently published Apartment Guidelines 2018.

On the opposite site of the road at Emerald Square

VV-0006 – The Board confirmed the Council's order placing the site on the Vacant Site Register.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

5.1.1. The Dublin City Council Development Plan 2016 to 2022 is the operative plan.

Zoned Z4 'to provide for and improve mixed-services facilities'.

QH19: To promote the optimum quality and supply of apartments for a range of needs and aspirations, including households with children, in attractive, sustainable, mixed-income, mixed-use neighbourhoods supported by appropriate social and other infrastructure.

QH1 To have regard to the DEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New

Apartments' (2015) and 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009).

QH3: (i) To secure the implementation of the Dublin City Council Housing Strategy in accordance with the provision of national legislation. In this regard, 10% of the land zoned for residential uses, or for a mixture of residential and other uses, shall be reserved for the provision of social and/ or affordable housing in order to promote tenure diversity and a socially inclusive city.

QH5: To promote residential development addressing any shortfall in housing provision through active land management and a coordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and under-utilised sites.

QH6: To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.

QH18: To promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.

QH19: To promote the optimum quality and supply of apartments for a range of needs and aspirations, including households with children, in attractive, sustainable, mixed-income, mixed-use neighbourhoods supported by appropriate social and other infrastructure.

QH20: To ensure apartment developments on City Council sites are models of international best practice and deliver the highest quality energy efficient apartments

with all the necessary infrastructure where a need is identified, to include community hubs, sports and recreational green open spaces and public parks and suitable shops contributing to the creation of attractive, sustainable, mixed-use and mixed-income neighbourhoods.

#### 16.10 Standards for Residential Accommodation

The provision and protection of residential amenities is a primary concern of Dublin City Council. This will be achieved through the relevant provisions of the Dublin City Development Plan. As outlined in the 'Quality Housing' chapter, it is an aim of Dublin City Council to encourage and foster living at sustainable urban densities through the creation of attractive mixed-use sustainable neighbourhoods. It is critical that new residential development is sufficiently flexible to allow for changing circumstances (e.g. aging, disability, growing family) and sufficiently spacious with all the necessary facilities to provide a level of residential amenity attractive to families with children on a long-term basis.

15.1.1.19 SDRA 16 Liberties and Newmarket Square - The Liberties statutory local area plan was adopted by the City Council in May 2009 and in April 2014 the timescale of the plan was extended until May 2020. The main purpose of the Liberties local area plan is to ensure that in developing individual land parcels, opportunities for regenerating the area in an integrated fashion are not missed. The 2009 plan provided a comprehensive, area-wide assessment of housing, open space, community facilities, employment opportunities etc., setting out key objectives for each theme.

Opportunities for new development are focused on key re-development sites (which include the subject site).

#### 5.2. **The Liberties LAP, 2009 (extended to 2020).**

The plan seeks to achieve the social, economic and physical regeneration of the area by providing a co-coordinated approach to the development of key sites and by

exploiting opportunities for the provision of new community infrastructure, new open spaces and public realm improvements.

Aim: to recognise the unique role the Liberties plays in Dublin's character and to ensure that regeneration safeguards a strong sense of community identity.

Although portions of Cork Street still retain the two and three storey 18th and 19th century commercial and residential buildings that once lined the route, these are disappearing to make way for larger new mixed-use residential developments of 6-8 stories in ever-increasing numbers. These more recent additions are beginning to redefine the character of the thoroughfare and respond to the greater street width with increased scale and height.

The increased width of the street requires that new developments respond to the increased scale without overpowering adjacent developments or casting them into perpetual shadow. The major construction of new, large mixed-use developments along its length should be encouraged while requiring that they be sensitive to adjacent heritage buildings and spaces.

#### Key Objectives for the Character Area Cork Street/The Coombe Corridor-

Create a good sense of enclosure along the length of the street corridor.

- Provide active frontages along key walking routes and towards key local public spaces.
- The public realm should be designed to encourage walking and cycling, providing shared surfaces and easy street crossings.
- Improve permeability by delivering links from Cork Street to other areas, enhancing connectivity within the wider emerging street network in the Liberties.
- Create intervals of green space and enhanced public realm along the street including street tree planting.
- Ensure that all new developments along the Cork Street / Coombe Corridor are of an appropriate building height up to a maximum of 6-8 storeys, subject to sensitivity to local context, appropriate transition in scale and the protection of established residential amenity and the quality of open spaces.



## Public realm strategy Cork Street corridor

- Enhance pedestrian realm and provide easy crossing points at key junctions of the emerging route network.
- Provide speed tables at crossing points (Speed tables to match paving height and material).
- Mitigate traffic impact by introducing central reserve. Plant semi-mature trees along its lengths where possible.
- Provide soft landscaping along the pavement edges and where possible plant trees.
- Highlight important gateways into the liberties at the junctions using lighting, paving patterns/materials, street furniture and lighting.
- Widen pavement where possible and provide stone paved sidewalks throughout.

5.2.1. Development Strategy – various improvements on public streets and in public places are proposed.

### 5.3. **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities**, Department of Housing, Planning and Local Government, March 2018.

This document includes provision for build to rent apartment developments. Build to rent (BTR) are rental only developments that are subject to centralised management arrangements, on a specified long-term basis, where individual housing units may not be separately sold for a specified period. They are also more likely to include the provision of added amenities for residents and other factors that allow for more communal lifestyles.

#### Specific Planning Policy Requirement 7

BTR development must be:

- (a) Described in the public notices associated with a planning application specifically as a 'Build-To-Rent' housing development that unambiguously categorises the project (or part of thereof) as a long-term rental housing scheme, to be accompanied

by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period;

(b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development. These facilities to be categorised as:

(i) Resident Support Facilities - comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.

(ii) Resident Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.

#### Specific Planning Policy Requirement 8

For proposals that qualify as specific BTR development in accordance with SPPR 7:

(i) No restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise;

(ii) Flexibility shall apply in relation to the provision of a proportion of the storage and private amenity space associated with individual units as set out in Appendix 1 and in relation to the provision of all of the communal amenity space as set out in Appendix 1, on the basis of the provision of alternative, compensatory communal support facilities and amenities within the development. This shall be at the discretion of the planning authority. In all cases the obligation will be on the project proposer to demonstrate the overall quality of the facilities provided and that residents will enjoy an enhanced overall standard of amenity;

(iii) There shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services. The requirement for a BTR scheme to have a

strong central management regime is intended to contribute to the capacity to establish and operate shared mobility measures;

(iv) The requirement that the majority of all apartments in a proposed scheme exceed the minimum floor area standards by a minimum of 10% shall not apply to BTR schemes;

(v) The requirement for a maximum of 12 apartments per floor per core shall not apply to BTR schemes, subject to overall design quality and compliance with building regulations.

### Bicycle Parking and Storage

(4.15) An important context for these guidelines is a likely significant population increase in our cities and urban areas over the next two decades. These guidelines aim to secure wider Government policy to achieve more sustainable urban development that will enable more households to live closer to their places of work without the need for long commuter journeys and disruption of personal and family time. Enabling citizens to more easily get around our cities and urban areas is a fundamental planning concern and maximising accessibility of apartment residents to public transport and other sustainable transport modes is a central theme of these guidelines.

Cycling provides a flexible, efficient and attractive transport option for urban living and these guidelines require that this transport mode is fully integrated into the design and operation of all new apartment development schemes. In particular, planning authorities must ensure that new development proposals in central urban and public transport accessible locations and which otherwise feature appropriate reductions in car parking provision are at the same time comprehensively equipped with high quality cycle parking and storage facilities for residents and visitors.

(4.17) The accessibility to, and secure storage of, bicycles is a key concern for apartment residents and apartment proposals must respond accordingly to the requirements below in their design and provision of cycle storage facilities.

Requirements of these guidelines for cycle parking – 1 space per bedroom plus 1 visitor space per 2 units.

## Car Parking

(4.19) In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity.

### 5.4. **Draft National Planning Framework - Ireland 2040 - Our Plan**

The Government's draft long-term strategic planning framework will guide national, regional and local planning and investment decisions over the next 25 years.

In relation to housing it states that well designed and located higher density housing will assist fast-growing urban areas to achieve much needed scale, medium-sized urban areas to find a route to quality in a new competitive framework, all urban areas to increase vibrancy and vitality, and increased efficiency and sustainability in the use of energy and public infrastructure.

National Policy Objective 36 - Support the provision of lifetime adaptable homes that can accommodate the changing needs of a household over time.

National Policy Objective 37 - Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

### 5.5. **Urban Development and Building Heights, Guidelines for Planning Authorities, Consultation Draft, August 2018**

- 5.5.1. The rationale for consolidation and densification in meeting our accommodation needs into the future must also be applied in relation to locations that development plans and local area plans would regard as city and town centre areas; for example, within the canal ring in Dublin and analogous areas in Cork, Limerick, Galway and Waterford and other major towns as identified and promoted for strategic

development in the National Planning Framework and Regional Spatial and Economic Strategies. In such areas, it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights, for example on suitably configured sites, where there are particular concentrations of enabling infrastructure to cater for such development, e.g. very significant public transport capacity and connectivity, and the architectural, urban design and public realm outcomes would be of very high quality.

## **5.6. Natural Heritage Designations**

- 5.6.1. South Dublin Bay and River Tolka Estuary SPA site code 004024 and South Dublin Bay SAC site code 000210 are the nearest Natura Sites, located c 5km from the subject site.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. Two third party appeals against the decision to grant permission, have been received.
- 6.1.2. A third party appeal has been made by Krystyna Rawicz & Associates on behalf of Anita Kelly, 7 Poole's Terrace, adjoining to the south. The grounds includes:
- The planning authority failed to give appropriate consideration to the impact on the adjoining property, particularly re residential amenity, overlooking and shadow casting.
  - The proposed vehicular entrance is immediately adjacent to third party's front door. First party's living room and bedroom are to the front of the house. Impact from noise (cars, gate opening and closing) will negatively impact the amenity of the property, notwithstanding the reduction in car parking.
  - The GoCar service is of concern. It is unclear how the facility can be restricted to apartment residents, given the online booking system.

- It is unclear whether the cars will be available on a 24hour commercial car rental lot and no controls imposed over this in the planning permission as granted.
- A photograph of the third party's boundary with the property is provided. A three storey wall will be located there and form a monolithic wall abutting.
- There is a triangular void between the wall of the new development and the existing boundary. This will be inaccessible post-completion and will harbour unwanted vegetation growth, rodents etc, causing nuisance.
- Detailed efforts made to avoid negative impact on residential properties to the west and north of the development are reviewed in the planning report, but not in relation to the third party's property.
- Overlooking from the open space on the first floor terrace if of concern. It is described as 'not accessible' however there are balconies and apartment doors opening onto this terrace and it is likely in practice that it will be used as a recreation space as it gets the evening sun. Impact on privacy and residential amenity: overlooking, noise, potential anti-social behaviour is anticipated.
- Condition No. 7 is referred to, this will only increase the height of the boundary and the overshadowing issue.
- Impact on the character of the streetscape is of concern. The existing premises adjoining the third party's is 2 storeys with a façade marginally higher than the third party's house and lower than the roof of the third party's house. The proposed development will be twice as high and beyond this 5 storeys tall, seriously injurious to the third party and the character of the streetscape.
- The proposed height across the north, west and eastern site boundaries is generally one storey with individual three storey elements, the third party considers that the height adjoining 7 Poole's Terrace should be no more than 2 storeys.
- The threat to the existing neighbourhood is of concern. The proposed mix of residential units will change the character of the neighbourhood to predominantly single/transient population, damaging the character and structure of the established residential neighbourhood. The Development Plan provision QH19 is cited 'to promote the optimum quality and supply of apartments for a range of needs and aspirations, including households with children, in attractive, sustainable, mixed-

income, mixed-use neighbourhoods supported by appropriate social and other infrastructure'; and the Liberties Action Area Plan item 5 'to recognise the unique role the Liberties plays in Dublin's character and to ensure that regeneration safeguards a strong sense of community identity'; these are not complied with.

- The ground floor could be developed to provide own door access to the street, respecting existing pattern and encouraging a relationship between residents and the existing community.
- The single large retail unit is inappropriately large, is likely to require car use and is unnecessary given stores in the vicinity. It would be more appropriate to have a mix of smaller shops.
- On street parking is already under significant pressure, with short term use throughout the day for both clients and visitors to the Coombe Maternity Hospital. Any large retail unit will inevitably generate car traffic and increased on street parking / illegal pavement parking in the area. There are currently 5 on street car parking spaces in front of the development which will be reduced to two if the loading bay is constructed.
- The impact of servicing is of concern. The proposed loading bay is considered inappropriate for a large anchor store and likely to result in considerable noise impact.
- Third party does not accept that deliveries will be controlled as proposed.
- Deliveries to the Coombe hospital are frequently made from either the roadway or the pavement in front of the site, with resultant disruption to traffic and safety implications. The proposed additional on street traffic will contribute to double parking, pedestrian and traffic disruption and road safety issues on a very busy and fast stretch of road.
- The third party considers that the proposed development will have a significantly injurious effect on the outdoor space at 7 Poole's Tce and this was not considered in the sunlight / daylight assessment.
- The requirements in the Roads & Traffic Engineer's report were not addressed. Their report failed to give adequate consideration to the residential amenity of existing residents. Peak times identified in the Traffic Engineer's report are 7.15 am

to 8.15am and 16.00 to 17.00pm, whereas, based on the third party's experience, the peak times at 7.00 to 10.00 and 4pm to 7 pm. Traffic is also heavy at weekends, due to the hospital.

6.1.3. A third party appeal against the decision to grant permission, has been made by Hughes Planning & Development Consultants on behalf of Dominic & Eileen Moriarty, 51 Dolphin's Barn Street, adjoining to the north. The grounds includes:

- Inconsistent with the Liberties Action Area Plan, sections of which are quoted, including section 7.7.
- Excessive height, scale and mass; relative to the established buildings and residential dwellings is unduly overbearing and severely injurious to the visual and residential amenities of the area.
- Due regard has not been given to: mixed-use development on Dolphin's Barn Street, having an appropriate mix of housing, high proportion of single aspect apartments, safety concerns for access arrangements for parking/access points, open space and communal space and under provision of parking spaces. Contrary to CDP objectives for appropriate residential development in this established area. Will result in the substantial loss of local amenity due to excessive overlooking and overbearing and significant loss of light.
- The City Development Plan is cited: 6.1.2 – deficient communal and open space provision. It does not support integration with the existing community. The open space has the potential for disturbance on adjoining properties, some is of limited utility but with potential for anti-social behaviour, overlooks adjoining properties, maintenance is not addressed.
- Re retail unit – there are a significant number of units vacant or operating below capacity in the area. Proposed development will contribute to the problem.
- The development should incorporate a community facility.
- There is under provision of car parking – the retail would require a maximum of 4 spaces and residential units a maximum of 1 space each: total 74.



- The development of an additional entrance point in close proximity to the two entrances to the Coombe hospital on either side of the proposed access point would create a traffic hazard as a result of proliferation of access points on this short street section. The separate access points for cyclists and pedestrians create hazard for various modes of transport.
- These access points are in addition to the proposed development of an additional signalised pedestrian crossing point south of the development, to the front of No 4 Poole Terrace. It would seriously injure to the residential amenity of Nos 5-7 Poole Terrace. The proposed pedestrian crossing is to be located 80m south of the existing pedestrian crossing which is at No 52 Dolphin's Barn Street, exacerbating traffic problems. The development will drastically reduce the speed on the street and result in increased commuting times.
- The excessive height and the transition between the existing and proposed structures will compromise the visual quality of the area by poor design.
- The plot ratio of 3.2 where an indicative plot ratio of 2.0 is given, it is over three times the existing plot ratio of 0.97, and represents overdevelopment, and has been achieved through a design which has attempted to facilitate unnecessarily excessive building height at a constrained site.
- The setting and streetscape militate against the consideration of such excessive height at this location.
- The massing will leave the majority of the surrounding two storey houses subordinate and diminish the level of residential amenity they currently enjoy by way of compromised aspect.
- CDP policies CH7 SC18 are cited.
- Considering the poor retention of original building lines and heights on the wider Cork Street, as a result of street widening, this street section needs to be protected.
- The proposed development will severely interfere with the visual quality of existing residential dwellings in the vicinity and conflicts with 14.7 of the CDP. The development Earl's Court is on a prominent corner site which commands a long view point and can be seen as a local landmark. The application site is located in a more

low-key street section and not capable of housing such a prominent development. In conflict with SC 18.

- The residential amenity of surrounding areas will be compromised, through loss of privacy. Rear gardens of Nos 50-56 Reuben St will front towards a blank gable wall.
- The rear garden of third party's property will be overlooked by the private resident's lounge on the third floor.
- The massing and maximum height of the building will result in an over-sized obtrusive mass of 3-7 storeys which would stand out as a result of contrasting materials and dominate the street section.
- The development would affect the attractiveness of properties to potential buyers, and impact the value of property.
- It would serve to exacerbate the increasingly illegible skyline of the Cork Street transport corridor.

## 6.2. Applicant Response

6.2.1. The applicant has responded to the grounds of appeal including:

- The development complies with the relevant SPPR's in the apartment Guidelines 2018 and other relevant DP standards for residential development. It is within the area defined 'inner city' where maximum heights of 28m for commercial and 24m for residential development are permissible; at 22.7m it complies. It is broadly consistent with the Liberties LAP which has an objective for 6-8 storeys on the Cork Street Corridor and 3 storeys to the rear of the subject site. The height and quality design are appropriate for the location. Cork St and Dolphin's Barn Street have established and emerging heights of 6-8 storeys plus. The proposed height is appropriate in the context of the surrounding buildings on Cork St and Dolphin's Barn Street which range from 3 to 12 storeys in height.

Amendments in the further information response:

- Omission of the basement level car parking and stair cores that access the basement car park. Revised basement to be 275 sq m plant area.

- Reduction of car parking provision from 85 (67 omitted at basement level) to 20 surface spaces (from 18 surface) at ground floor level. Increase in bike storage to 143.3 sq m (80 to 136).
- Reconfiguration of the internal layout and resulting alteration to the proposed unit mix comprising 39 x 1 bed and 31 x 2 bed. No change is proposed to the number of residential units (70). The proposed changes result in an increase in the total residential gross floor area (GFA) from 7,638 sq m to 7,953.4 sq m & a reduction in north facing single aspect from 17 to 13.
- Reconfiguration of the proposed retail unit at ground floor level, results in a decrease in the GFA from 1,405 sq m to 1,135.8 sq m.
- Provision of communal amenity space from ground to fourth floor level measuring a total of 573 sq m: communal games room / lounge area of 74.1 sq m at ground floor, communal office space 23.7 sq m, four storage areas total 106.8 sq m, and a gym 156.4 sq m, concierge area, communal residential dining areas at first floor 164 sq m and fourth floor 59.1 sq m; and communal laundry/storage areas at second and third floor 37.6 sq m.
- 40% of the units are dual aspect. A mix of high quality residential support and amenity facilities is provided in accordance with SPP 8.

Policy compliance is detailed.

Responding to the grounds of appeal:

- *The proposed development is deficient in the provision of communal and open space areas.*

The scheme at FI stage improved the provision of communal facilities in carefully located areas of the scheme, listed. The planner's report accepting these provisions is referred to. The Apartment Guidelines 2018 do not outline any standard for calculating the amount of internal communal facilities for BTR developments. They submit that the provision is acceptable as all units are provided with private amenity space in excess of minimum standards and a communal open space area is provided at first floor level, measuring 693 sq m.

The usability and maintenance of communal open space at first floor level is queried. Re overlooking, it is located and designed to ensure passive supervision within the scheme and avoid adverse overlooking of adjacent properties through setbacks from side boundaries.

In relation to management related concerns, the applicant is in discussions with international management companies who specialise in the operation of Build-to-Rent and student accommodation developments. A BTR Management Plan can be submitted by way of compliance which will outline how the BTR scheme will operate; condition 3 refers.

It is not possible to provide publicly accessible open space in a site of this nature. Facilities provided for the residents are referred to.

- *The proposed unit mix does not meet the DP objective to provide apartments that cater for a range of needs.*

The appeal refers to the previously proposed 41 x 1 bed and 29 x 2 bed scheme and not the updated 39 x 1 bed and 31 x 2 bed scheme. The mix is consistent with SPPR 8 of the Apartment Guidelines 2018 which states ‘no restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise.’

The PA found the unit mix acceptable. An Bord Pleanála are required to have regard to the guidelines and to apply any specific planning policy requirements of the guidelines.

- *Issues with the proposed commercial unit at ground floor level. There is no local requirement for another large anchor retail store considering the provision of retail units in proximity to the site. The on-street loading bay will cause negative impacts to surrounding environment.*

The proposed unit was reduced in size at further information stage, which helps to address concerns of third parties. The mixed use zoning, per Section 14.8.4 of the DP, outlines that mixed use developments incorporating retail, office, residential and live-work units are encouraged on Z4 sites. The Liberties LAP includes a key objective to provide active frontages along key walking routes and towards key local public spaces. The proposed unit accords with such objective.

The proposed unit is considered to offer a planning gain, reinforcing an active and vibrant Dolphin's Barn Street, redeveloping underutilised site, providing activity and surveillance at street level and enhancing the public realm.

The argument is made that there is an under-provision in car parking for the retail units. It was agreed with the Transportation Department that 2 spaces for retail staff was acceptable, given the residential density of the surrounding area and the sustainable modes of transport in the vicinity of the site. The DP standard for retail parking would equate to a maximum of 8 spaces and not 12 as stated by the third party. The unit will be serviced by an on-street loading bay, which is considered appropriate.

- *The proposed development does not provide a sufficient amount of car parking.*

Retail parking has been addressed. The 20 spaces, to be provided at ground floor, is considered acceptable as the site is in a central and accessible location in accordance with SPPR8 of the Apartment Guidelines 2018, which supercede the DP standards. The scheme is also provided with 136 bicycle spaces which exceeds DP standards and adheres to the recommendations of the Apartment Guidelines. Of the 18 residential spaces 8 are to be reserved for a car club. The planner's report is cited. Regarding the concern that it is unclear how the car facility can be restricted to apartment residents, the Cronin & Sutton Consulting response is referenced. A Car Parking Management Plan will be submitted for written agreement, detailing how the remaining 10 residential spaces will be allocated and managed.

- *The proposed development would create traffic and access hazards for road users and neighbouring residents and does not respond to the PA's recommendations.*

The Cronin & Sutton Consulting response is referenced.

Re the concern that a pedestrian crossing and junctions and access points will result in traffic hazard, the pedestrian crossing has been omitted, at FI stage. Re the position of the vehicular entrance and impact on the adjacent property, the basement car parking has been omitted and there will be no access to the public. Sufficient

storage is provide for 2 cars and no queuing on the public footpath or road will be experienced.

The Roads & Traffic Engineer's Report referred to, predates the FI response. The revisions in the FI response were acceptable to the Traffic & Transport Department and their report is cited.

- *The proposed development will result in a loss of residential amenity.*

Injury to residential amenity of 5-7 Poole Terrace from the vehicular access – with the omission of the basement, reduction of car parking, and non use by the public with no queuing on the road, the impact proposed is to be expected within this urban context, and the objectives for redevelopment in the area.

Noise – the loading bay is now located on-street.

The massing and façade treatment has been altered to reduce the building mass and provide an interesting architectural addition to the streetscape.

Privacy issues: from overlooking at 51 Dolphin's St and 7 Poole Terrace, and that the rear gardens of 50-56 Reuben Street will front towards a gable wall – the first floor communal open space, per landscape masterplan and landscape report, is designed to avoid overlooking onto surrounding residential properties, primarily through the setbacks provided and the use of boundary treatment / planting. This is also addressed in condition 7 (b), which will address any potential for overlooking.

Concerns re daylight and sunlight at no. 7 Poole's Tce – sunlight impact on the rear yard of No 7 Poole's Tce is addressed in the BPG3 report attached. A Daylight and Sunlight Assessment by BPG3, submitted with the application describes how the proposed development impacts on sunlight / skylight amenities and concludes:

while it has not been possible to demonstrate full compliance with the skylight recommendations at all points analysed it has been possible demonstrate compliance in the vast majority of them. In the small number of cases where skylight impacts have been found the magnitude of these impacts is found to be minor in most cases. In the singular instance where moderate adverse impact has been identified (kitchen window serving no. 2 Emerald Square)

this impact is offset to a large extent by the fact that high levels of sunlight access will be retained at this point.

Appropriate measures have been considered including set back and design, to reduce the level of adverse impact on neighbouring properties, whilst providing a commercially viable residential and retail development at an appropriate scale and design.

At FI stage an Internal Daylight Assessment of Habitable rooms and Sunlight Assessment of Communal Open Space was prepared by BPG3 to address the PA's concerns regarding daylight and sunlight amenity for the proposed development. The levels of daylight in 58 rooms, including those with worse case potential on levels 1 and 2, were analysed. The study concludes that the assessment of daylight amenity meets or exceeds the 1% minimum ADF target recommended for bedrooms and 1.5% for living rooms and concludes that all habitable rooms in the wider development will also receive good levels of internal daylight amenity.

The sunlight assessment for communal open space states that 69% of the outdoor communal open area will have the potential to receive direct sunlight on the 21<sup>st</sup> March, comparing favourably with the BRE minimum guideline target of 50%.

Daylight Impact Assessment states that sunlight & daylight available to neighbouring residences and impact on neighbouring gardens has been analysed. The results show full compliance with BRE in relation to sunlight availability to neighbouring windows. In relation to skylight available to neighbouring windows, 47 of 53 points analysed meet or exceed BRE targets, in 5 cases a minor departure from the guidelines was observed and in one case a moderate departure. In the case of neighbouring outdoor spaces an impact on 5 of the 10 spaces analysed was recorded for the March equinox. These spaces were further analysed for every month of the year and the finding was that noticeable loss of sunlight is predicted for short periods in spring and autumn only.

- *The proposed development is out of scale in the context of the residential properties opposite the site.*

The proposed development offers a number of significant planning gains, including the provision of much needed residential units in the city centre, active retail floorspace at street level and significantly improved design appearance and enhancement of streetscape, per LAP. The height has had regard to the residential amenities of neighbouring properties. A well proportioned façade is presented to Dolphin's Barn Street, providing a good sense of enclosure and stepping down to the rear.

Appropriate measures have been considered to reduce the level of adverse impact on neighbouring properties. The three storey element has a separation of 23m from the rear of properties on Reuben St. It steps up to 5-7 storeys to front Dolphin's Barn Street where the development is angled so as not to interfere with properties at Poole Terrace. No proposed communal areas are proposed for this area and windows are angled to avoid overlooking. The scale reduces to 1 & 3 storeys at the rear of the site, with regard to the development strategy of the LAP and the surrounding pattern of development in the area.

It is of a similar scale to other recent developments in the area.

The proposed height was accepted by the PA and the planner's report is cited in this regard.

- *The proposed height, scale and massing is excessive.*

It is argued that the transition between the existing and proposed heights is unacceptable and out of scale. The height and design is appropriate and will provide for a greater sense of enclosure. It is compliant with the DP standards and appropriate in the context of surrounding buildings along Cork Street and Dolphin's Barn Street, including Earls Court which ranges from 3 to 12 storeys. Heights of 28m for commercial and 24m for residential development, are permissible in this area.

Significant regard was given to reducing the level of adverse impact on neighbouring properties.

The proposed height is supported by National Planning Policy. National Planning Framework NPO 35 - increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill



development schemes, area or site-based regeneration and increased building heights.

The Draft Building Heights, Guidelines promote the policies in the National Planning Framework to greatly increase levels of residential development in urban centres by increasing height and density in residential schemes. Section 1.10 recommends minimum heights of at least 6 storeys within the canal ring.

The proposed height was accepted by the PA and the planner's report is cited in this regard.

Re concern about excessive plot ratio, Section 16.5 of the DP states that higher may be permitted in certain circumstances: adjoining major public transport where an appropriate mix of residential and commercial uses is proposed; to facilitate comprehensive redevelopment in areas in need of urban renewal; to maintain existing streetscape profiles; etc.

This location is considered to comply.

The proposed plot ratio was accepted by the PA and the planner's report is cited in this regard.

Re concern that the development would dominate the existing street section and the residual residential and commercial units, the height and massing are concentrated in the centre of the site with a stepped approach and building heights varying from 3 to 7 storeys. Re materials, the Roads & Traffic Department requested details of treatment of the access including materials to be agreed, condition no. 12.

### 6.3. Response by Cronin & Sutton Consulting

It is proposed that access to the onsite car parking be closed to the public and controlled by a fob-activated automatic barrier. The revised design proposals provide sufficient storage space between this barrier and the site boundary for 2 no. incoming cars to wait without obstructing pedestrian or vehicular traffic on the footpath or public road.

Parking provision for cars and bicycles complies with the standards in Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities.

It is proposed that a residential car club be set up within the development as a sustainable means of providing residents with access to a car when required, without

incentivising unnecessary car journeys or giving over excessive space to car parking.

A Management Company or its representative will act as a Mobility Co-ordinator for the residential element of the development and implement a Mobility Management Plan. As part of the Mobility Management Plan that seeks to promote and facilitate the use of sustainable transport by residents and visitors, the MMP shall set targets for the proportions of trips to/from the development made by private transport and the Mobility co-ordinator shall monitor progress towards these targets by means of regular travel surveys. Specific measures may include:

Travel Information Points located at strategic public locations within the development, providing information on public transport services (including real-time passenger information), walking and cycling routes, and the residential car club.

A development-specific website and/or mobile app, giving similar information to the Travel Information Points but also linking to relevant public transport and walking/cycling websites or apps.

Engagement with local authorities, residents' groups, and public transport operators to ensure that local transport infrastructure (e.g. footpaths, cycle lanes, public lighting) and services are maintained at a high standard and are safe and comfortable to use.

GoCar Ireland's largest car-sharing service has delivered several car-sharing solutions for residential and office developments in Dublin. Occupants of these developments are registered as a specific category of GoCar user thereby having full access to the shared vehicle pool within the development. GoCar has indicated a willingness to provide at least 8 shared cars for the sole use of the development's residents.

#### 6.4. Response by BPG3

'Assessment of Sunlight Impact registering on rear yard at No 7 Poole Terrace, Dolphin's Barn St.' – the results are based on the % of area which receives more than 2 hours of direct sunshine on the 21<sup>st</sup> of March. The existing area receiving sunlight for 2 hours on that date is 16% of the yard. It is stated that the minimum

recommended by BRE is 13% (c 20% reduction allowed by BRE). With the development in place it is predicted that the area receiving sunlight for 2 hours will be 16% of the yard, and therefore, that the predicted impact is negligible. Images for shadows cast in the existing situation and after development are supplied for December, June and March.

## **6.5. Planning Authority Response**

6.5.1. The Planning Authority has not responded to the grounds of appeal.

## **6.6. Further Response**

6.6.1. Krystyna Rawicz & Associates on behalf of Anita Kelly, 7 Poole's Terrace has responded to the first party response to the grounds of appeal, including:

- CGI page 9 shows the extent to which the proposed development dwarfs third party's house.
- Re 7.23 any expectation that management of deliveries will be able to control to non-peak times is unrealistic.
- 7.31 fails to address concerns re proximity to the third party's front door and bedroom.
- They refer to section 3 of their appeal, final paragraph, re the third party's rear yard.

## **6.7. Board Correspondence**

The Board wrote to the Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht, The Heritage Council and An Taisce, informing them of the appeal and that the development might affect or be unduly close to a monument in a zone of archaeological constraint.

No response has been received.

## **7.0 Assessment**

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, environmental impact assessment, the principle of the development, building height, impact on residential amenities, traffic safety, archaeology and built heritage, and other issues and the following assessment is dealt with under those headings.

### **7.2. Appropriate Assessment**

- 7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

### **7.3. Environmental Impact Assessment**

- 7.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

### **7.4. Principle of the Development**

- 7.4.1. The proposed development is on a brown field site which has been identified in the Liberties LAP, 2009 (extended to 2020), as an opportunity site for significant redevelopment. The site is zoned for the provision and improvement of mixed-services facilities.
- 7.4.2. The proposed development provides for a mix of uses with retail (a single unit) at ground floor and residential above, two entrances are proposed along this length of street frontage. In my opinion the development provides for a mixture of uses in accordance with the zoning, will provide an active frontage and is acceptable in principle.

## 7.5. Building Height

- 7.5.1. The height of the proposed development is challenged in the grounds of appeal. The proposal to provide for heights along the street edge extending to 7 storeys and reducing to 3 storeys at either end, is a considerable increase on the existing heights within the subject site, but is in line with the increased heights envisaged in the LAP of 6-8 storeys along the Cork Street / Coombe Corridor. The heights envisaged are subject to sensitivity to local context, appropriate transition in scale and the protection of established residential amenity and the quality of open spaces. In addition to the increased height along the street edge the proposed height extends in depth from the front of the site reducing towards site boundaries. The development design has been subject to detailed examination and refinement during the application process, including analysis regarding shadowing. The impact on residential amenities is dealt with under separate heading below.
- 7.5.2. The emerging pattern in this area is for increased height. It is policy and plan led. Increased building height is part of National Policy Objective 37, of the Draft National Planning Framework, to increase residential density in settlements. It will support achieving a more sustainable and resilient city, which is part of the core strategy of the Dublin City Council Development Plan 2016 to 2022. Increase in height is the subject of the government's consultation document: Urban Development and Building Heights, Guidelines for Planning Authorities, August 2018.
- 7.5.3. With reference to the third party's suggestion that the height adjoining 7 Poole's Terrace should be no more than 2 storeys. the proposal is to provide a height of 3 storeys at the street front, which can be seen on drawing no P2001 revision A (drawing no P2001 revision B – further information response), the proposed elevation and can be compared the existing situation shown in elevation on drawing no P2100 revision A. In my opinion the transition to three storeys at the northern and southern ends of the proposed development is a suitable compromise between the need for extra height at this location fronting Dolphin's Barn Street, identified as a key objective in The Liberties LAP, 2009 (extended to 2020), and the need for sensitivity to the buildings adjoining, which are of 2 and 3 storeys. Any further reduction in height would fail to provide the enclosing effect sought on this important street and would fail to align with the objectives of the City Development Plan or with

national policy for the achievement of adequate density and height in appropriate central locations.

- 7.5.4. I am satisfied that the proposed increase in height accords with policy guidance, the development plan and local area plan, and notwithstanding that the existing heights on site are lower and that the adjoining buildings are lower, I am satisfied that the proposed building heights are appropriate.

## **7.6. Impact on Residential Amenities**

- 7.6.1. The grounds of appeal from the third party appellants, owner/occupiers of the properties immediately adjoining to the north and south on Dolphin's Barn Street, include concerns in relation to overlooking, overshadowing, noise and other issues which concern impact on their residential amenities.
- 7.6.2. Overshadowing & Amenity Space
- 7.6.3. The third party appellant to the south considered that detailed efforts made to avoid negative impact on residential properties to the west and north of the development are reviewed in the planning report, but not in relation to the third party's property. In particular the third party considers that the proposed development will have a significantly injurious effect on the outdoor space at 7 Poole's Tce and states that this was not considered in the sunlight / daylight assessment.

The first party response to the grounds of appeal includes a further report by BPG3 titled Assessment of Sunlight Impact registering on rear yard at No 7 Poole Terrace, Dolphin's Barn St, which concludes that the predicted impact on this outdoor area, with the development in place, would be negligible.

The potential for impact on daylight and sunlight was considered in the BPG3 report titled 'A Daylight Impact Assessment' which accompanied the application. This concludes that there will be full compliance with the BRE guidance in relation to sunlight availability to neighbouring windows, i.e. the 16 facing within 90° of south. In relation to skylight available to neighbouring windows 53 points were analysed of which 47 meet or exceed BRE targets; in 5 cases a minor departure from the guidelines was observed and in one case a moderate departure. In relation to potential impact on sunlight on neighbouring outdoor spaces, an impact on 5 of the 10 spaces analysed was recorded for the March equinox. These spaces were further

analysed for every month of the year and the finding was that noticeable loss of sunlight is predicted for short periods in spring and autumn only.

The suitability of the proposed accommodation in terms of the access to daylight and sunlight was reported on by BPG3 in response to a further information request. Internal spaces at first and second levels were considered to represent the worst case, and 58 internal spaces at these levels were analysed. All spaces reached the target of a minimum of 1% daylight factor for bedrooms and a minimum of 1.5% daylight factor for living rooms.

Communal outdoor space assessed for sunlight shows that 69% of the communal areas have the potential to receive direct sunlight on the 21<sup>st</sup> March, comparing favourably with the BRE minimum guideline target of 50%, and this indicates compliance with the guidance and demonstrates that future residents will enjoy access to good levels of daylight amenity.

Private amenity space proposed for all units exceeds minimum standards. In this regard it is noted that the balconies to be provided on the eastern elevation are inset balconies, recessed into the façade which, notwithstanding that they overlook a busy public road, confers a level of utility to these spaces.

7.6.4. In my opinion the issue of overshadowing has been addressed satisfactorily. Existing amenity is not compromised by the proposed development and acceptable levels of amenity will be available to the proposed units.

7.6.5. Overlooking

7.6.6. Impact from overlooking has been raised in both third party appeals.

7.6.7. It has to be acknowledged that, where currently there exists disused low rise buildings, a residential development of up to seven stories will be erected, and therefore there will be some impact in terms of overlooking.

7.6.8. The proposed development appears to have been designed with the intention of minimising overlooking impact. Open spaces are shown at the northern and southern ends of the development, extending from the rear of the portion of building fronting Dolphin's Barn Street to the western boundary of the site. These open space areas ensure that the building is set back from sensitive boundaries. The part of the building which extends as far as the western boundary presents a solid wall on the

boundary with windows and balconies to these apartments facing north and south. The open spaces at first floor level, and which are referred to in the grounds of appeal, appear designed to avoid overlooking.

- 7.6.9. The open space to the south appears to be set back from the southern and western boundary by an area where the ground floor car park, circulation and bin storage is unroofed. This has to be inferred from the drawings, since the relevant drawing (P1002 Revision A & Revision B (further information response)) has a notation for this area referring to the landscape masterplan; and no section is provided. This open space is in any case inaccessible. Per the landscape masterplan, it is stated that it gives the impression of a semi-private large garden, even if only accessible for maintenance. In my opinion therefore there is no potential for overlooking from this open area.

The third party to the south is nevertheless concerned about overlooking from this open space, and considers that although described as 'not accessible' there are balconies and apartment doors opening onto this terrace and it is likely in practice that it will be used as a recreation space, as it gets the evening sun, and therefore impacts on privacy and residential amenity from overlooking, noise and potential anti-social behaviour are anticipated.

The open space in question is stated to be inaccessible and in this managed, build to let apartment development, it is reasonable to expect that the restriction of access to this area will be enforced.

- 7.6.10. The open space at first floor level to the north is set back from the western boundary and part of the northern boundary, by a void over the ground floor, noted on the drawing P1003 Revision B. It is set back from part of the northern by an area stated to be inaccessible, sunken 1 ½ m below the accessible terrace area. Such a reduced level would lower the height of part of the retail area, but is not shown in section. It is noted that the landscape masterplan shows this area at the same podium level to the level of the accessible communal area, from which it is separated by a high wall. It can be accepted that this sunken garden will be landscaped and maintained as an inaccessible 'borrowed landscape' as described in the landscape masterplan, and will provide privacy distance between the accessible communal area and the adjoining properties to the north / north east.



7.6.11. A recreational courtyard is shown extending closer to the northern boundary. This area is stated to be sheltered and separated from the north with layers of trees and bushes. This area adjoins the void previously referred to and therefore it is reasonable to infer that a wall or other fence would also be employed to separate the area from the boundary, which would provide screening between the accessible communal area and adjoining properties.

It is worth noting that condition 7 of the planning authority's decision, which requires details to be submitted for the prior written consent of the planning authority, includes a requirement for detailed drawings and documentation of all perimeter site boundary walls including heights and finishes proposed; and details of privacy screens/walls for all external communal areas and the recreation courtyard area; and also requires that the boundary treatment to northern and western perimeter of this courtyard shall be a minimum of 1.8metres in height.

In addition to the foregoing information, required to satisfy the planning authority in relation to residential amenities, and considered a reasonable requirement, additional details are required.

In relation the landscaped communal area at the northern end of the site, adjoining the 1 bedroom apartment, and at the western end of the site, adjoining the 2 bedroom apartment, detailed landscaping proposals are required. It appears from the landscape masterplan that these areas are to be landscaped such as to be inaccessible and this is necessary due to proximity to site boundaries. In the case of the area at the western end, this area adjoins the void to ground floor level, which is also a consideration. It is considered that a condition should require these additional details to be agreed.

7.6.12. The third party to the north is concerned that the rear garden of their property will be overlooked by the private resident's lounge on the third floor. There is a resident's lounge on the fourth floor which is provided with a balcony looking west and north in the direction of the third party's property, however it is 18m from the site boundary and this is considered a reasonable distance, in the context of a city centre site.

7.6.13. As previously noted the building is set back from site boundaries. Windows and balconies are oriented to face over landscaped areas within the site and this limits the potential for overlooking. Distances from boundaries are noted in the plans

submitted in response to the further information request. In my opinion the proposals are largely acceptable in relation to the protection of privacy, however I note a number of issues for the Board's consideration.

- 7.6.14. At the western side of the site, the proposed development aligns with the site boundary up to second floor and is c3.66m distance from the boundary, at third and fourth floor.
- 7.6.15. At first and second floor, south facing terraces are proposed to serve two dual aspect apartments which adjoin the boundary. For clarity, it is considered that there should be a requirement that these terraces have a privacy screen on the western side; and a condition to this effect is proposed.
- 7.6.16. At third and fourth floor levels, windows lighting a 1 bed apartment, a 2 bedroom apartment and a corridor, face west. It is considered that having regard to the proximity to boundaries these windows should be glazed with obscured glass.
- 7.6.17. At the southern end of the site, balcony projections at the rear of the portion of building fronting Dolphin's Barn Street, at first to sixth floor levels, look southwards in close proximity to the adjoining property to the south, (third party's property). Having regard to the proximity of these balconies to the site boundary it is considered that it should be a requirement that these balconies have a privacy screen on the southern side, and that a condition to this effect should be attached.
- 7.6.18. Overbearing impact
- 7.6.19. Issues in relation to overbearing impact have been raised the appeal. It is stated that a three storey wall will be located adjoining the third party to the south and will form an abutting monolithic wall. It is stated that the massing will leave the majority of the surrounding two storey houses subordinate, and diminish the level of residential amenity they currently enjoy by way of compromised aspect.
- 7.6.20. I am satisfied that the setting back of the upper floor levels from boundaries reduces the potential overbearing impact as far as is practicable and that the proposed development, which provides for a considerable increase on the existing heights within the subject site, in line with the increased heights envisaged in the LAP, includes an appropriate transition in scale to existing adjoining development.
- 7.6.21. Noise

- 7.6.22. Impact from noise has been raised the appeal in relation to the proximity of the vehicular entrance to the third party's dwelling and the difficulty of restricting the use of the rental car service to residents.
- 7.6.23. When previously used as a factory, the site availed of a vehicular access at this location. The site is located along a busy road and it is unlikely that the vehicular access to the development would contribute in any significant way to the noise from vehicles using this artery. It is worth noting that the response to the further information request has reduced the proposed car parking to a relatively modest 20 spaces, including 8 to be devoted to shared use cars which it is intended will be provided by 'GoCar'. Regarding the third party's concern that it is unclear how the facility can be restricted to apartment residents, it is considered, notwithstanding assurances given that the service would be dedicated to residents of the development, that a condition should be attached, restricting the use of the parking area of 18 vehicles, including those for shared use, to residents, with 2 spaces to be for staff of the retail outlet.
- 7.6.24. It is of concern to the third party that the servicing of the retail unit will contribute to noise impact. Servicing of the retail unit will take place on street from a loading bay to be provided in lieu of on street parking spaces. It is stated that for the most part deliveries will be made before the am peak, by one large articulated vehicle 3 times a week, and 3 small deliveries daily, all outside peak hours. Refuse collection will take place from the street.
- 7.6.25. In my opinion, having regard to the nature of traffic on this busy thoroughfare, it is unlikely that the servicing of the retail unit would contribute in any significant way to the noise from vehicles using the public road at this location.

## **7.7. Traffic Safety**

- 7.7.1. Traffic safety has been raised in the appeals. The car parking provision is considered by a third part to be less than the required 74 spaces, and likely to contribute to illegal parking on the footpath, which is stated to be an existing problem in this area. The first party points out that the reduction in car parking, which was submitted in a revision to the original proposal to provide 85 spaces, was in response to the guidance in the Sustainable Urban Housing: Design Standards for New Apartments,

Guidelines for Planning Authorities, Department of Housing, Planning and Local Government, published in March 2018, after the subject application was made, (dated 13<sup>th</sup> September 2017). They point out that the Board has an obligation to adhere to the guidelines.

- 7.7.2. The Guidelines state that in areas that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. For build to rent (BTR) there shall be a default of minimal or significantly reduced car parking provision on the basis of BTR development being more suitable for central locations and/or proximity to public transport services.
- 7.7.3. I am satisfied that the quantum of car parking and cycle parking proposed is in line with the guidelines and is appropriate.
- 7.7.4. The car parking, total 20 spaces, is accessed across a public footpath where currently there is an existing vehicular access. It is proposed that the barrier controlling access will be set back 12m from the inner edge of the footpath, providing sufficient storage for 2 incoming cars, which reduces the potential for queuing on the footpath / street.
- 7.7.5. Access to 136 cycle parking spaces is provided as a separate, independent access. Cycle parking for a total 8 spaces, is to be provided as public parking for the retail unit, located in the covered entry to the car parking, forward of the control barrier.
- 7.7.6. There is third party concern that development of an additional entrance point, in close proximity to the two entrances to the Coombe hospital on either side of the proposed access, would create a traffic hazard as a result of proliferation of access points on this short street section; and that the separate access points for cyclists and pedestrians create hazard for various modes of transport. The proposals are acceptable to the Roads & Traffic Planning Division. I am satisfied that the accesses for cycle parking and car parking are appropriate.
- 7.7.7. Reference is made in the grounds of appeal to illegal parking to which it is stated the proposed development would contribute. Illegal parking is a matter for enforcement authorities and any such concern should not be a reason to refuse permission or modify the development.

- 7.7.8. Reference is made in the grounds of appeal to an additional signalised pedestrian crossing point south of the development, to the front of No 4 Poole Terrace, that it would seriously injure to the residential amenity of Nos 5-7 Poole Terrace, would exacerbate traffic problems, drastically reduce traffic speed on the street and result in increased commuting times. This proposal was omitted in response to the request for further information and is no longer part of the proposed development.
- 7.7.9. In my opinion nothing arises under the heading traffic safety which would require that the proposed development be refused or modified. I note the conditions recommended by the Roads & Traffic Planning Division which are included in the decision and I consider their attachment reasonable.

## **7.8. Archaeology & Built Heritage**

- 7.8.1. The site is located partially within the Zone of Archaeological Constraint for the recorded monument DU0180043-01: a watercourse; and is located within the Zone of Archaeological Interest for the historic town of Dublin. The Archaeological Assessment (Irish Archaeological Consultancy) submitted with the application states that the City Watercourse, the re-routed River Poddle, which provided a water supply from the 13th century, is located along the western boundary. It also notes that there has been a terrace of houses along the Dolphin's Barn Street limit of the site since at least the early 17<sup>th</sup> century. It notes that in the nineteenth century, sheds and outbuildings on the site, were associated with two tannery yards. The report recommends archaeological mitigation.
- 7.8.2. The Architectural Heritage Assessment (Molloy & Associates Architects), submitted with the application includes a survey of the 8 former houses along the street. Noting an early closet return from between 1700 and 1750 to the rear of No 43, an abundance of early timber joinery and oversized corner chimney breasts c1720 at No 44; the original ridge perpendicular to the street, large corner chimney breasts and early timber joinery at No 45, c1720. The report contains an historic analysis of the relevant period, noting the arrival of skilled Quaker and Huguenot refugees from the 1650's and 1660's onwards, settling in the Liberty, and the characteristic gable-fronted house, cruciform steep roof and corner fireplace once known as the 'Quaker fireplace'. It states that these dwellings were the forerunners of the Dutch Billy and,

from the mid seventeenth century until the mid eighteenth century, the style represented the general character of Dublin's streets.

- 7.8.3. The report notes that they have acquired a heritage value representative of building typologies of their respective eras of construction, but notwithstanding the existing grouping's social and architectural history, the buildings are not afforded statutory protection. It further notes that decades of wilful neglect of an obviously 18<sup>th</sup> century terrace, identifiable from the public realm, could not have gone unnoticed, and the present condition coupled with the omission from any protection policies, in effect endorses the principle of demolition as a consequence of irreversible loss of significance. They note that a detailed record is merited.
- 7.8.4. Conditions are recommended in the City Archaeologist's report.
- 7.8.5. It is considered that the impact of the proposed development on the archaeology & built heritage of the site can be appropriately mitigated.

## 7.9. **Other Issues**

- 7.9.1. Proposed uses and impact on the community have been cited in the appeals; that there is no need for this large retail unit, that it will contribute to vacancy which is a problem in the area; that a community facility should be included; that publicly accessible open space should be provided; and that the mix of residential units proposed will change the character of the neighbourhood to a predominantly single/transient population, damaging the character and structure of the established residential neighbourhood. It is submitted that the ground floor could be developed to provide own door access to the street, respecting existing pattern and encouraging a relationship between residents and the existing community. Non compliance with development plan standards is of concern. The creation of a void between structures is a concern. An ESB substation was included at further information stage.
- 7.10. Communal Facilities and Housing Mix
  - 7.10.1. The first party in response points to the communal facilities provided in the scheme for residents, which the planning authority accepted as adequate provision, and they point out that it is not possible to provide publicly accessible open space in a site of this nature; they also note that the Apartment Guidelines 2018 do not outline any standard for calculating the amount of internal communal facilities for BTR

developments. In relation to the mix of residential units proposed, the first party in response states that the mix is consistent with SPPR 8 of the Apartment Guidelines 2018 which states 'no restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise,' and they point out that An Bord Pleanála is required to have regard to the guidelines and to apply any specific planning policy requirements of the guidelines.

Item (i) of Specific Planning Policy Requirement 8 of the guidelines states that for proposals that qualify as specific BTR development in accordance with SPPR 7, no restrictions on dwelling mix and all other requirements of these Guidelines shall apply, unless specified otherwise.

I am satisfied that the mix of residential units proposed is acceptable and that the communal facilities to be provided is aligned with the objectives of the Guidelines and is appropriate.

#### 7.11. Size of Retail Unit & Use Mix

7.11.1. In relation to the retail unit, no evidence has been presented that a unit of this scale is inappropriate or that it would compete with smaller vacant units. It appears to me that the proposed unit will make a valuable contribution to retail provision in this area. The proposed use mix is acceptable in terms of the zoning and the provision of a community facility for the area is not a specific requirement for development on this site.

#### 7.12. Development Plan Standards

7.12.1. Development Plan Standards in relation to plot ratio and site coverage have been cited in both appeals, which state that the proposed development exceeds these standards and comprises overdevelopment.

7.12.2. The first party in response states that section 16.5 of the Development Plan states that higher than recommended standards may be permitted in certain circumstances.

7.12.3. Section 16.5 sets out development standards in relation to plot ratio and section 16.6 sets out development standards in relation to site coverage. For Z4 zoned lands, an indicative plot ratio of 2.0 applies. The plot ratio proposed exceeds this ratio. In Z4 areas indicative site coverage of 80% applies. The scheme is stated to provide for 95% coverage.

7.12.4. Section 16.5 and 16.6 set out circumstances in which higher plot ratio and higher site coverage may be permitted, which include: adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed; to facilitate comprehensive redevelopment in areas in need of urban renewal; or to maintain existing streetscape profiles. It is considered that the proposed development falls under a number of these headings and I am satisfied that exceeding the indicative plot ratio and indicative site coverage standards should not be a reason to refuse permission or to modify the proposed development.

#### 7.13. Void

7.13.1. It is of concern to the third party to the south that a triangular void will remain between the wall of the new development and the existing boundary, which will be inaccessible post-completion and will harbour unwanted vegetation growth, rodents etc, causing nuisance.

7.13.2. The first party has not responded to this concern.

7.13.3. Although the layout of the development from first floor level to third floor level shows a residual area adjacent to the southern boundary, the ground floor plan indicates the proposed development extending to the site boundary, and part of the proposed attenuation storage (drawing C096-002 revision A), is within the area referred to. It is considered therefore that no concern arises in relation to a triangular void remaining between the wall of the new development and the existing boundary.

#### 7.14. ESB substation

7.14.1. An ESB substation is shown in revised drawings submitted in response to the further information request. It was not mentioned in the initial notices and notices referring to revisions to the scheme did not include reference to the substation. I consider therefore that it should be subject to a separate permission.

## 8.0 Recommendation

8.1.1. In the light of the above assessment I recommend that planning permission be granted for the following reasons and considerations and in accordance with the following conditions.



## 9.0 Reasons and Considerations

- 9.1.1. The proposed development of a brownfield city centre site, where disused and derelict land and buildings will be replaced by 70 residential build to rent apartments and a retail unit 1135m<sup>2</sup>, within an area zoned for the provision and improvement of mixed-services facilities, and where objectives of the Liberties Local Area Plan include the objective for securing increased height along Dolphin's Barn Street, which the proposed development will provide; will supply necessary rental housing and valuable retail provision, will not unduly impact on the amenities of adjoining residential properties; and will be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 18<sup>th</sup> day of May 2018 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. Prior to the commencement of development on site, the applicants shall submit, for the prior written consent of the Planning Authority:
  - a) detailed drawings and documentation of all perimeter site boundary walls including heights and finishes proposed.
  - b) details of privacy screens/walls for all external communal areas and the

recreation courtyard area. The boundary treatment to northern and western perimeter of this courtyard shall be a minimum of 1.8metres in height.

c) detailed proposals in relation to the communal area at the northern end of the site adjoining apartments to ensure that this area is inaccessible, and at the western end of the site between the apartment block and the void to ensure that this area is inaccessible.

d) details of privacy of privacy screens along the western boundary of south facing terraces at first and second floor.

e) details showing that the west facing windows to the 1 bed apartment, the 2 bedroom apartment, and the corridor, close to the western boundary, at third and fourth floor levels, will be glazed with obscured glass, and

f) details of privacy screens along the southern end of balcony projections at the rear of the portion of building fronting Dolphin's Barn Street, near the southern end of the site, at first to sixth floor levels.

**Reason:** In the interests of the residential amenities and proper planning and sustainable development.

3. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

(i) the nature and location of archaeological material on the site, and

(ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

No construction or site preparation work may be carried out on the site until all archaeological requirements of the City Archaeologist are complied with.

No subsurface work shall be undertaken in the absence of the archaeologist without his/her express consent. The archaeologist retained by the project to carry out the assessment shall consult with the City Archaeologist in advance regarding the procedure to be adopted in the assessment.

Before any site works commence the developer shall agree the foundation layout with the City Archaeologist.

Following submission of the final report to the City Archaeologist, where archaeological material is shown to be present the archaeological paper archive shall be compiled in accordance with the procedures detailed in the Dublin City Archaeological Archive Guidelines (2008 Dublin City Council), and lodged with the Dublin City Library and Archive, 138-144 Pearse Street, Dublin 2.

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 area and to secure the preservation (in-situ or by record) and protection of any

archaeological remains that may exist within the site.

4. The record of the historic building grouping, comprising the terrace of houses No's 43-50 Dolphin's Barn Street, shall be finalised by a qualified historic buildings expert when each building is cleared of debris and rendered safe, enabling access to all areas. Further mitigation may arise from this survey, such as a measured survey or archaeological monitoring.

**Reason:** In order to mitigate the loss of the built heritage which this site possesses.

5. The external wall, roof and window finishes of the development hereby permitted shall be submitted for the written consent of the Planning Authority prior to commencement of works, no alterations to same will be permitted in the absence of prior written consent of the Planning Authority.

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

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;

(b) Location of areas for construction site offices and staff facilities;

(c) Details of site security fencing and hoardings;

(d) Details of on-site car parking facilities for site workers during the course of construction;

- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (f) Measures to obviate queuing of construction traffic on the adjoining road network;
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (i) Provision of parking for existing properties at [specify locations] during the construction period;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) 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;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Proposals for remediating any unearthed contaminants
- (n) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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

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

7. During any construction or commercial site clearance, excavated materials shall be damped down or otherwise treated to prevent the emission of dust

from the site. All stockpiles shall be planned and sited to minimise the potential for dust nuisance.

**Reason:** In order to safeguard the amenities of adjoining premises, residential amenity, and the general surroundings.

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

9. During the construction and demolition phases the proposed development shall comply with British Standard 5228 Noise Control on Construction and open sites Part 1, Code of practice for basic information and procedures for noise control.

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

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

**Reason:** In the interest of public health.

11. a) No signage shall be erected on foot of this permission. Signage for the retail unit and residential scheme hereby permitted shall be the subject of a separate planning application for same.  
b) No free-standing advertising structures associated with the proposed development shall be erected on the adjoining public pavement or at the entrance to the retail unit.  
c) All windows shall be maintained at all times, and the glazing shall be kept free of all stickers, posters and advertisements.  
d) Opening hours of the retail unit hereby permitted shall not extend beyond 0700-2300 Monday-Sunday. Any alterations to same shall be subject to the prior written consent of the Planning Authority.

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

12. a) Prior to the occupation of development, a Residential Travel Plan shall be submitted for the written agreement of the Planning Authority. This shall identify specific measures aimed at encouraging sustainable modes of transport. The developer shall undertake to implement the measures outlined in the Residential Travel Plan and to ensure that future tenants of the proposed development comply with this strategy.  
b) a Mobility Manager shall be appointed for the overall scheme and shall oversee and co-ordinate the preparation and implementation of the Residential Travel Plan. The ( ) shall monitor and review the Residential Travel Plan at intervals to be agreed with Dublin City Council. The Mobility Manager shall carry out travel habit surveys of residents and identify actions for the applicant and future tenants of the development, so that progress towards meeting the targets set out in the plans can be maintained. This review may, from time to time, result in the adjustment of targets.

**Reason:** In the interests of traffic safety.

13. a) Prior to the occupation of development, a Car Parking Management Plan shall be submitted for the written agreement of the Planning Authority. This plan shall indicate how spaces will be assigned and segregated by use and how use of the car parking will be continually managed. Specific details regarding the allocation and management of the 10 no. residential car parking spaces which will not be reserved as Car Club spaces shall be provided.
- b) 8 no. car parking spaces within the development shall be permanently allocated to a Car Club for use solely by residents of the development.
- c) car spaces shall not be sold, rented or otherwise sub-let or leased to other parties.

**Reason:** In the interests of orderly development and traffic safety.

14. a) Unless otherwise agreed in writing with the Planning Authority access to the parking area shall be via a fob-activated automatic barrier which shall be set back a minimum of 12m from the Dolphin's Barn Street.
- b) At the vehicular access/exit point to the development, measures shall be implemented, including contrasting materials, signing, and road marking, etc, to ensure that vehicles entering/leaving the development are aware that pedestrians / cyclists have priority across the site entrance and that vehicles must yield right -of-way. Details shall be agreed in writing with the Environment and Transportation Department prior to commencement of the development.
- c) Prior to commencement of the development the developer shall contact the Traffic Advisory Group (TAG) to ascertain their requirements regarding the removal of pay and display parking spaces and the provision of a



loading bay. Any works shall be agreed in writing and shall be carried out at the developer's expense.

d) Details of the materials proposed in public areas are required and should be in accordance with the document Construction Standards for Roads and Street Works in Dublin City Council and agreed in detail with the Road Maintenance Division.

e) Prior to commencement of the development and on appointment of a contractor, a Construction Management Plan shall be submitted to the planning authority for written agreement. This plan shall provide details of intended construction practice for the development, including traffic management, hours of working, noise management measures and off-site disposal of construction /demolition waste.

f) Cycle parking shall be secure, conveniently located, sheltered and well lit. Key/fob access should be required to bicycle compounds. Cycle parking design shall allow both wheel and frame to be locked.

g) All costs incurred by Dublin City Council, including any repairs to the public road and services necessary as a result of the development, shall be at the expense of the developer.

h) The developer shall be obliged to comply with the requirements set out in the Code of Practice.

**Reason:** In the interests of traffic safety.

15. 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. 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.

16. Prior to the commencement of any development works on site, the applicant shall submit, for the written consent of the Planning Authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold or rented separately for that period.

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

17. Prior to the commencement of development on site, the applicants shall submit, for the written consent of the Planning Authority, details of the Management company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

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

18. Prior to the expiration of the 15 year period for Build-to-Rent use on site, the applicant shall submit for the written consent of the Planning Authority, ownership details and management structures proposed for the continued operation of the entire development.

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

19. The development hereby permitted shall operate in accordance with the definition of Build-to-Rent developments as set out in Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (March 2018) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

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

20. Proposals for a development name, and for unit identification and numbering and associated signage shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. The proposed name shall be based on local historical or topographical features, or other alternative acceptable to the planning authority, and shall be in both Irish and English. Thereafter, the name and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

21. The ESB substation shown on drawing no. P1002 revision B, shall be not be developed on foot of this permission.

**Reason:** In the interest of clarity and to define the terms of this permission.

22. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit or a bond of an insurance company/bank,

to secure the satisfactory maintenance, completion and any reinstatement of services/infrastructure currently in the charge of Dublin City Council, including roads, open spaces, car parking spaces, public lighting sewers and drains, and

to secure the satisfactory completion of services/infrastructure until taken in charge by a Management Company or by the local authority, of roads, open spaces, car parking spaces, public lighting sewers and drains, and

in the event that land to be used as open space is taken in charge, the title of any such land must be transferred to Dublin City Council at the time of taking in charge.

The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of traffic safety and the proper planning and sustainable development of the area

23. The developer shall pay to the planning authority a financial contribution of €558,537 (five hundred and fifty eight thousand five hundred and thirty seven euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

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

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Planning Inspector

3<sup>rd</sup> October 2018

## Appendices

Appendix 1 Photographs

Appendix 2 Extracts from the Dublin City Council Development Plan 2016 to 2022

Appendix 3 Extracts from The Liberties LAP 2009 (extended to 2020).

Appendix 4 Extracts from the Draft National Planning Framework - Ireland 2040 -  
Our Plan.