



An
Bord
Pleanála

Inspector's Report ABP303658-19

Development	Demolition of house and construction of 5 houses.
Location	31 Orwell Road and Washerwomens Lane, Rathgar, Dublin 6.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	4351/18.
Applicant	Andrea Free.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party -v- Decision to Refuse.
Appellant	Andrea Free.
Observers	(i) Rathgar Residents Association, (ii) Eric O'Bryne, (iii) Toiréas Ní Bhriain, (iv) Haven Property Management.
Date of Site Inspection	3 rd April, 2019.
Inspector	Paul Caprani.

Contents

1.0 Introduction	3
2.0 Site Location and Description	3
3.0 Proposed Development	4
4.0 Planning Authority's Decision	5
4.1. Documentation Submission with Planning Application.....	6
4.2. Planning Authority's Assessment.....	7
5.0 Planning History.....	8
6.0 Grounds of Appeal.....	8
7.0 Appeal Responses.....	11
8.0 Observations.....	11
9.0 Development Plan Provision.....	14
10.0 EIA Screening Determination	16
11.0 Planning Assessment.....	17
12.0 Conclusions and Recommendation.....	24
13.0 Appropriate Assessment	24
14.0 Decision	25
15.0 Reasons and Considerations	25

1.0 Introduction

ABP303658-19 relates to a first party appeal against the decision of Dublin City Council to issue notification to refuse planning permission for the demolition of an existing house and the construction of 5 houses at a site on the Orwell Road near Rathgar Village Centre south of Dublin City. Dublin City Council issued notification to refuse planning permission on the grounds that the proposal incorporates inadequate private open space provision, would result in an unreasonable level of overlooking of adjoining amenity spaces and would be visually obtrusive within the streetscape. This decision was the subject of a first party appeal. Four observations were also lodged in respect of the appeal objecting to the proposed development and requesting that the decision of Dublin City Council be upheld.

2.0 Site Location and Description

- 2.1. The appeal site is located on the eastern side of the Orwell Road on the southern environs of Rathgar Village approximately four kilometres south of Dublin City Centre. The subject site is irregularly shaped and occupies an area of 694 square metres (0.07 hectares). The site is currently vacant with the exception of a derelict two-storey structure which was formerly a period residential dwelling dating from the mid-19th century. Palisade fencing runs along the boundary of the site. The site has road frontage onto the Orwell Road and more extensive frontage onto Washerwomans Lane which runs along the northern boundary of the site. This lane comprises of a cul de sac lane which serves an underground car park associated with a Supervalu convenience store to the immediate north of the site. The laneway also provides rear access to a number of large dwellinghouses which front onto Highfield Road to the north of the site.
- 2.2. A two-storey commercial block is located adjacent to the northern boundary of the site at the corner of Washerwomans Lane and Orwell Road. This accommodates a retail store at ground floor level and office accommodation above.

- 2.3. The block on the northern side of Washerwomans Lane directly opposite the site accommodates a small Supervalu convenience store fronting onto Orwell Road and also accommodates residential accommodation at first and second floor level to the rear of the block including balconies which directly face onto and overlook the subject site.
- 2.4. Lands to the south of the site accommodate an infill residential development Stratford Haven. This residential development comprises of a small residential gated community accommodating 25 two-storey residential terraced houses. Four of these dwelling units (Nos. 10 to 16) back onto the southern boundary of the appeal site. Each of these units accommodate modest rear gardens between 5 and 10 metres in depth.

3.0 Proposed Development

- 3.1. Planning permission is sought for the construction of five two-storey dwellinghouses on the subject site. Vehicular access to the dwellinghouses are to be located off Washerwomans Lane approximately 20 metres from the junction of Orwell Road. Three of the dwellinghouses are to be located to the rear (east of the site). They are set out in a staggered terrace block of three and are to face westwards towards a communal courtyard area which is also to provide vehicular access to the off-street car parking spaces. Two larger dwellinghouses are to front directly onto Orwell Road. The terraced dwellings to the rear are to comprise of three-bedroom dwellings while the two dwellings fronting directly onto Orwell Road comprise of larger four-bedroom dwellings. Dwelling No. 1 has a gross floor area of 195 square metres while Dwelling No. 2 is slightly smaller at a 176 square metres. Dwellings Nos. 1 and 2 are slightly setback from the front boundary onto Orwell Road providing small front gardens (17 square metres and 9 square metres respectively). Car parking for both dwellings are to be located to the rear and are accessed via the communal courtyard and vehicular entrance off Washerwomans Lane. The rear garden of House No. 1 amounts to 49 square metres while the rear garden of House No. 2 is slightly larger at 63 square metres.
- 3.2. The staggered terrace of dwellings to the rear comprise of slightly smaller three-bedroomed dwellinghouses ranging in floor area from 113 square metres to 124

square metres. Each of the dwellings accommodate small front garden areas ranging between 13 and 23 square metres. All dwellinghouses are three-storeys in height.

- 3.3. The dwellinghouses fronting onto Orwell Road (House Nos. 1 and 2) incorporate a somewhat contemporary design with a serrated type monopitched zinc roof. The remainder of the elevational finishes include a selected grey facing brick on the lower levels together with a granite coursed stone sandblasted finish, and a self-coloured polymer render on the upper floors. Balconies are also proposed on the Orwell Road elevation at second floor level. Houses 3, 4 and 5 to the rear also incorporate a zinc-cladded roof in a more conventional hip-shaped. The first and second floor extensively comprise of a selected grey facing brick finish with a selected brick mosaic pattern on the front elevation between the main bedroom windows at first and second floor.
- 3.4. Photomontages of the proposed external finishes are indicated on the architect's Design Statement submitted with the application.

4.0 Planning Authority's Decision

Dublin City Council issued notification to refuse planning permission for three reasons which are set out in full below.

1. Having regard to the extent of the proposed development on a constrained site, the private amenity space for houses 3, 4 and 5 fail to meet the minimum standards set out in the City Development Plan and would therefore result in a substandard level of amenities for future occupiers. The proposed development by itself and by the precedent which a grant of planning permission for it would set would be contrary to the provisions of the City Development Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would result in a loss of residential amenities of adjoining properties through the unreasonable overlooking of private amenity spaces in the Stratford Haven development to the south. The proposed development would therefore have an adverse impact on adjoining residential

amenity and would be contrary to Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

3. The proposed development by reason of its scale, bulk and irregular roof profile would be visually obtrusive in the streetscape and does not have adequate regard to the proportions and scale of the surrounding development. The proposed development would therefore be incongruous and out of character with the established built form in the area and would set an undesirable precedent for similar developments in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.1. **Documentation Submission with Planning Application**

- 4.1.1. The planning application was accompanied by an architect's **Design Statement** including a qualitative housing analysis, a sunlight analysis and photomontages. The design statement sets out details of the site location and context and notes that the site has been cleared of all outbuildings and sheds etc. so that only the two-storey former residential dwelling remains on site. The report sets out details of the quantum of development including details of the proposal's compliance with development management standards set out in the Dublin City Council Development Plan. Also, the report sets out details of pre-application consultations which took place. Issues which informed the overall design approach are also set out in Section 7 of the Report. A particularly important consideration was the need to obviate any direct overlooking of adjoining premises. The design rationale which informed the layout and design of the dwellings is set out. Details of the materials incorporated and how these materials were influenced by the surrounding palette of external finishes are set out. The final sections of the report include sunlight analysis and a series of photomontages.
- 4.1.2. Also submitted was an **Engineering Services Report** which sets out details of the foul drainage system, the water supply system and the surface water drainage system proposed.
- 4.1.3. A **Construction and Demolition Waste Management Plan** was also submitted. It states that careful management of waste including demolition waste will take place

during the demolition and construction phase. The maximum amount of recycling, reuse and recovery will be applied. However, it is expected that a certain amount of waste will still go to landfill.

- 4.1.4. A site-specific **Flood Assessment Report** was also submitted. It notes that the existing site lies within Flood Zone C and the subject site is located outside any noted flooding events. While the type of development is defined as highly vulnerable to flooding, using the sequential approach mechanism recommended by the OPW in the Flood Risk Management Guidelines, it is assessed that a justification test is not required for the proposed development.
- 4.1.5. Also submitted is an **Outline Construction Management Plan** and a **Sustainability and Energy Rating Report**.

4.2. **Planning Authority's Assessment**

- 4.2.1. A report from the Engineering Department Drainage Division stated that there was no objection to the proposed development subject to standard conditions.
- 4.2.2. A number of letters of objection were submitted in respect of the proposed development, the contents of which have been read and noted.
- 4.2.3. A report from the City Archaeologist notes that the proposed development is approximately within the border of the zone of archaeological constraint and it was noted that archaeological investigations in advance of the construction of the Supervalu store uncovered two skeletons. For this reason it is recommended that a condition be attached requiring archaeological monitoring.
- 4.2.4. A report from the Transportation Planning Division requests additional information in respect of access and manoeuvrability in and out of the site onto Washerwoman's Lane.
- 4.2.5. The planner's report notes that the proposed development constitutes a combination of both backland and infill development. It is not considered that the proposed development has taken appropriate consideration of the existing character of the street having regard to the proportions and the overall impact of the development particularly arising from the irregular roof profile. It was also noted that the development plan recognises that backland/infill development can have a significant

loss of amenity on existing properties including loss of privacy, overlooking and noise disturbance etc. It notes that the development generally complies with appropriate minimum habitable room sizes however, concern still exist in relation to the level of overlooking.

- 4.2.6. It is noted that the existing dwelling on site which appears to date back to the 1860s, whilst not protected, has offered streetscape value for many years. No attempt has been made to retain part or all of the building and no justification has been made for its removal. Concerns are expressed in relation to the level of private open space provision. For these reasons it is recommended that planning permission be refused.
- 4.2.7. Dublin City Council therefore issued notification to refuse planning permission for the above three reasons set out above in this report.

5.0 Planning History

- 5.1. No files are attached. However, reference is made to in the planner's report to the following planning history:
- 5.2. Under **Reg Ref 1459/02** permission was sought for a development which included the demolition of all derelict structures and the construction of 11 apartments with access directly onto Orwell Road. Dublin City Council requested additional information with regard to the justification of the demolition of the house and outbuilding and further details in relation to compliance with open space standards. Additional information was not submitted and the application was therefore deemed to be withdrawn.
- 5.3. Under **Reg. Ref. 0828/03** planning permission was granted for the demolition of derelict structures on site and the construction of 9 apartments with a semi-basement car park.
- 5.4. Under **Reg. Ref. 3315/04** planning permission was granted for alterations to the previous grant of planning permission referred to above.

6.0 Grounds of Appeal

- 6.1. The decision was the subject of a first party appeal on behalf of the applicant by JAM Architecture Limited.

6.2. The grounds of appeal argue that there was a change in area planner between the pre-planning meeting which took place prior to the lodgement of the application. Therefore, there was an absence in continuity in dealing with the application. It is stated that many of the concerns raised in the pre-application consultation meetings were addressed in the application submitted. These included concerns in relation to density/open space provision, the redesign of the roof profile, eaves and parapet level and details in relation to boundary treatment, overlooking and separation distances.

6.3. With regard to the specific reasons for refusal cited by the Planning Authority the following is stated.

In relation to the first reason for refusal, it is stated that on foot of the Planning Authority's concerns raised in the pre-application consultation the private gardens particularly in relation to Houses 3, 4 and 5 were substantially increased in size which results in more usable and sunny private open space. This should be contrasted with the apartments adjacent to SuperValu which incorporate overhanging balconies onto Washerwomans Lane. It is also noted that the subject site is backland development where standards can normally be relaxed.

Should the Board agree that private open space for Houses 3, 4 and 5 are insufficient, an amended proposal is submitted. The proposal omits the car parking spaces of House Nos. 4 and 5 and reduces the vehicular gate width on Washerwomans Lane in order to increase the private open space associated with Houses 3, 4 and 5. This substantially increases each of the front garden areas to provide private amenity open space standards as follows:

House No. 3 – 50 square metres.

House No. 4 – 49.2 square metres.

House No. 5 – 56.4 square metres.

This involves the reduction in car parking with only two car parking spaces now provided for House Nos. 1 and 2 together with a visitor car parking space to be used by the smaller houses (3, 4 and 5). This is deemed to be acceptable having regard to the site's close proximity to Rathgar Village and the bus stops adjacent.

With regard to the issue of overlooking which is referred to in Reason No. 2, it is stated that this issue was raised in the pre-application consultations and the applicant took reasonable measures to ensure that the issue of overlooking was appropriately addressed. It is stated that the windows provided to Bedroom No. 4 (in House Nos. 1 and 2) on the rear elevation are escape windows which are in compliance with the Building Regulations. Should the Board consider that there is unreasonable overlooking of private amenity open space the Board are requested to amend the proposal which includes a revised roof plan (Drawing No. 965/17). This proposal raises the window cill level to 1,050 millimetres and introduces an opaque sandblasted finish to the vertical glazing.

With regard to Reason for Refusal No. 3, again it is argued that the pre-planning minutes were interpreted incorrectly and the grounds of appeal set out the various alternatives that were considered in respect of roof design, floor to ceiling heights etc. It is acknowledged that the quality of the surrounding built environment is high however, there is a precedent to permit a three-storey development in the area. Reference is made to the Supervalu development to the immediate north. However, it is suggested that the application site is a standalone location and further removed from the village core. There are many examples where low rise residential stock sit happily beside larger properties and reference to precedents are set out in Appendix 4 of the submission. The Board are therefore asked to consider the proposal as a modern statement which bookends the terrace on Orwell Road and constitutes a standalone piece of architecture in its own merit. However, should the Board agree that the proposed expressive roof profile is incongruous an amended proposal is contained in Appendix 5 and it is requested that such a proposal be conditioned.

A total of 8 appendices are submitted with the grounds of appeal. These are briefly set out below.

- Appendix 1 outlines the omission of two car parking spaces with an increase in the front garden areas associated with House Nos. 3, 4 and 5.
- Appendix 2 indicates a change of use to the second-floor windows to the rear of the houses of 1 and 2 in order to address concerns in relation to overlooking of adjacent gardens.

- Appendix 3 incorporates a sketch of how the existing building abutting the site at the corner of Washerwomans Lane and Orwell Road could be extended incorporating an additional floor in keeping with the proposed roof profile.
- Appendix 4 outlines examples of modern architecture to underline the principle of good design in an historic context.
- Appendix 5 indicates an alternative roof design to house nos. 1 and 2 with a more traditional pitched roof profile.
- Appendix 6 includes a copy of the applicant's solicitor's letter indicating the applicant's legal right to use Washerwomans Lane.
- Appendix 7 includes a report in relation to the proposed demolition of the existing derelict house on site.
- Appendix 8 incorporates a sweep path analysis for the car parking area using "autoturn" software.

7.0 Appeal Responses

It appears that Dublin City Council did not submit a response to the grounds of appeal.

8.0 Observations

8.1. Rathgar Residents Association

- 8.1.1. The existing house on site (Orlando House) has been a unique feature of the approach to Rathgar Village for a very long time. And this area of Rathgar Village is also designated as an area of archaeological importance. It is noted that human remains were found during the archaeological investigation of the adjoining Supervalu.
- 8.1.2. The City Development Plan seeks to ensure that design principles for all new buildings would respect Dublin's heritage and local distinctiveness. Rathgar Village over the last number of years has been earmarked as a suburban village for improvements. The proposed development is totally at variance with the character of Rathgar Village which incorporates a more traditional domestic-type scale. The size

and scale of the proposal at three-storeys with an undulating roof feature is grossly intrusive and no attempt has been made to match the grain or fabric of the existing area.

- 8.1.3. The grounds of appeal suggest that the dwellinghouses will get little daylight penetration and Houses 3 to 5 will look out on the rear of Highfield Road in an unkempt service lane.
- 8.1.4. The proposed development will result in overlooking and the required 22 metres between imposing first floor windows is not being achieved.
- 8.1.5. The private amenity space is inadequate and below the standards set out for rear/side gardens in the development plan.
- 8.1.6. There are access and safety considerations and it is inappropriate that children and parents will be required to enter their homes along a busy parkway/delivery truck entrance/exit which is used by shoppers. There is also traffic, car parking and safety considerations in respect of existing traffic accessing and egressing the underground car park associated with Supervalu.
- 8.1.7. In conclusion therefore, it is argued that the proposal constitutes an overdevelopment of a small site which would impact on the visual amenities of the area. The proposal fails to meet the minimum standards of daylight overlooking a private amenity space and will give rise to traffic and pedestrian hazards.

8.2. Observation from Eric O'Byrne

- 8.2.1. Mr. O'Byrne who lives at 8 Stratford Haven states that the proposed development would totally overlook his property and would block out sunlight. The proposal is deemed to be totally unsuitable for the area and for this reason An Bord Pleanála is requested to uphold the decision of the Planning Authority.

8.3. Observation from the Haven Property Management DAC

- 8.3.1. The appellants object to the proposed third dwellinghouse which forms part of the proposed terrace of three staggered houses to the rear of the site. The height and scale of the gable end of the dwelling which abuts the rear boundary of an adjoining house at Stratford Haven is considered to be totally inappropriate. This dwellinghouse would seriously overshadow and block natural sunlight to the dwellings in question. The proposal as designed will have an unacceptable impact

on Nos. 12, 14 and 16 Stratford Haven. Furthermore, it is argued that there is no precedent on this section of the Orwell Road for a three-storey building.

- 8.3.2. It is also argued that the balconies are unnecessary and compromise existing residential amenities of the adjacent houses at Stratford Haven. The applicant's agent was specifically told that an unacceptable terrace to the front of the dwelling requires redesign.
- 8.3.3. Concerns are also expressed about the courtyard. It is suggested that that this should be finished in soft landscaping as hard landscaping is unsustainable in terms of climate change.
- 8.3.4. The proposed side windows of House No. 2 facing onto the Orwell Road will overlook the front garden of No. 8 Stratford Haven. These windows should be removed by An Bord Pleanála by way of condition.
- 8.3.5. The alterations submitted as part of the appeal are considered to be overly complex and the reduction in car parking are deemed to unacceptable and below practical and reasonable standards for car parking.

8.4. Observation from Toiréas Ní Bhriain

- 8.4.1. The observer is the resident of No. 14 Stratford Haven. Again, the applicant strongly objects to the proposed third house which forms part of a terrace of three staggered houses to the rear of the site on the grounds that (a) it is too close to the boundary wall of No. 14, (b) the modest length of the rear garden of No. 14 and (c) the proposed first floor balconies are not acceptable and will compromise the existing residential amenity at No. 14 Stratford Haven. With regard to the remaining two houses, they should only be permitted as two-storey dwellings.
- 8.4.2. Concern is also raised in relation to the proposed three-storey dwellings fronting onto Orwell Road. It is stated that there is no precedent for buildings of such size and scale on the road. It is also stated that the proposed side windows on House No. 2 facing onto Orwell Road will look onto the front garden of No. 8 Stratford Haven and as such would compromise the amenities of that green area. These windows should be removed by way of condition.
- 8.4.3. The competent authority is therefore requested to approve at most, only four new two-storey dwellinghouses on the subject site.

9.0 Planning Policy Framework

9.1. Development Plan

9.2. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022. The subject site is zoned Z1 – *sustainable residential neighbourhood*. The zoning objective is to – ‘*protect, provide and improve for residential amenities*’. Residential development is a permissible use under this zone. Specific policies which are relevant are as follows:

Policy QH7 seeks to promote residential development and sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

Policy QH8 seeks to promote sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area.

Policy QH22 seeks to ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

9.3. Section 16.10.8 relates to backland development. It states that Dublin City Council will allow for the provision of comprehensive backland development where opportunities exist. It notes that the development of individual backland sites can conflict with the established pattern and character of development in the area. Backland development can cause a significant loss of amenity to existing properties including loss of privacy, overlooking, noise disturbance and loss of mature vegetation and landscape screening. Applications for backland development will be considered on their merits.

9.4. Section 16.10.10 relates to infill housing. It states the following:

9.5. Having regard to policy on infill sites and to make the most sustainable use of land and existing urban infrastructure, the planning authority will allow for the development of infill housing on appropriate sites. In general infill housing should comply with all relevant development plan standards for residential development;

however in certain limited circumstances, the planning authority may relax the normal planning standards in the interest of ensuring that that vacant, derelict and under-utilised land in the inner and outer city is developed.

9.6. Infill housing should:

- Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings:
- Comply with appropriate minimum habitable room sizes.
- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

9.7. In relation to private open space, it is noted that privacy is an important element of residential amenity and contributes towards the sense of security. Private open space for houses is usually provided by way of private gardens to the rear or side of a dwelling. A minimum standard of 10 square metres of private open space per bedspace will normally be applied. A single bedroom represents one bedspace and a double bedroom represents two bedspaces. Generally, up to 60 to 70 square metres of rear garden area is considered sufficient for houses in the city. In relation to proposals for houses in the inner city, a standard of 5 to 8 square metres of private open space per bedspace will normally be applied.

9.8. At the rear of dwellings there should be adequate separate distance between opposing first floor windows. Traditionally, a separation distance of about 22 metres was sought between the rear of two-storey dwellings but this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities of privacy of adjacent occupiers. Careful positioning and detailed design of appropriate windows can prevent overlooking with shorter back to back distances of windows serving halls and landings do not require the same degree of privacy as habitable rooms.

9.9. **National Planning Framework**

9.9.1. Section 2.6 of the National Planning Framework highlights the importance of securing compact and sustainable growth. In this regard National Policy Objective

3(a) seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements.

9.9.2. National Policy Objective 3(b) seeks to deliver at least half of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford within their existing built-up footprints.

9.9.3. The NPF recognises that one of the principle benefits of more compact growth and development is that it will reduce harmful impacts on the environment by:

- Reducing landtake, preserving agricultural land and habitats.
- Utilising existing infrastructure, buildings and sites and reducing the need to travel long distances which will reduce energy consumption and carbon emissions.
- Improving the viability of public transport and services.
- Enhancing public health by encouraging and facilitating more active lifestyles by creating more walkable and cycle friendly urban environment.

9.9.4. National Policy Objective 13 states that in urban areas, planning and related standards including in particular building height and car parking, will be based on performance criteria that seek to achieve well designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

10.0 EIA Screening Determination

10.1. While the proposed development falls within a class of development for which EIA may be required, there is no real likelihood of significant effects on the environment based on the nature, size and location of the proposed development and therefore no EIA is required in this instance.

11.0 Planning Assessment

I have read the entire contents of the file, visited the site in question and its surroundings and have had particular regard to the Planning Authority's reasons for refusal and the arguments set out both the grounds of appeal and the observations submitted. I consider the pertinent issues in dealing with the current application and appeal are as follows:

- Principle of Residential Development on Site
- Impact on Residential Amenity
- Traffic and Pedestrian Safety Issues
- Other Issues

11.1. Principle of Residential Development on Site

- 11.1.1. The subject site is zoned Z1 *"to protect, provide and improve residential amenities"*. Residential development is a permitted use under this land use zoning. The site in question can be classed as infill housing on backlands. The development plan states that such applications will be considered on their merits. Section 16.10.10 of the Plan which specifically relates to infill housing seeks to ensure that such housing makes the most sustainable use of land and existing urban infrastructure. However, in general infill housing should comply with all relevant development plan standards for residential development. The Plan however allows some flexibility in stating that in certain limited circumstances the Planning Authority may relax the normal planning standards in the interests of ensuring that vacant, derelict and underutilised land in the inner and outer city is developed. Any infill housing should have regard to the existing character of the street by paying attention to the established building line, proportion, height, parapet levels and materials of surrounding buildings.
- 11.1.2. The more recently adopted National Planning Framework emphasises the need to develop brownfield/infill sites at more appropriate and sustainable densities to ensure more compact cities. The NPF seeks to deliver 40% of all new homes nationally within the built-up footprint of existing settlements. In order to achieve such an objective, sites such as the appeal site, will be required to be developed and

developed at densities higher than the prevailing density in the area. The NPF recognises and advocates the principle benefits of more compact growth including utilising existing infrastructure, improving the viability of public transport and services and creating an urban environment which facilitates more healthy and sustainable trip patterns such as cycling and walking.

11.1.3. The NPF also emphasises a more flexible approach based on design and performance criteria in order to achieve well designed high-quality development. It places less emphasis on compliance with prescriptive standards and more emphasis on flexibility and tolerance in standards where high quality design is achieved in the layout of the scheme.

11.1.4. It is clear therefore that the development of underutilising derelict brownfield sites such as the subject site can be regarded as a positive planning gain and that the development of the subject site for housing is fully in accordance with the zoning objectives set out in the development plan. Furthermore, both the development plan and to a greater extent, the more recently adopted National Planning Framework seeks to ensure that any such redevelopment of infill/backland sites is executed in a manner that provides for higher more sustainable densities in order to achieve more compact growth. It is clear therefore in my opinion that the principle of the development and in particular the principle to develop the subject site at a higher density than the prevailing density in the area, is fully in accordance with national and local policy subject of course to complying with qualitative safeguards in relation to visual and residential amenity. These qualitative safeguards are assessed in more detail below in the context of residential amenity issues.

11.2. **Impact on Residential Amenity**

11.2.1. The concerns set out in the Planning Authority's reasons for refusal and in the various observations submitted relating to the proposed development primarily relate to residential amenity concerns. These concerns can be assessed under the following sub-headings:

- Overdevelopment of the Site
- Private Amenity Space Provision
- Overlooking

- Overshadowing
- Overbearing Nature of the Development

11.2.2. With regard to overdevelopment of the site, two general - if somewhat blunt, tools used to assess the appropriate quantum of development are plot ratio and site coverage standards. The indicative plot ratio for Z1 zoned sites in the inner city is between 0.5 and 2.0 as set out in the development plan. The architect's design statement submitted with the application indicates that the plot ratio in this instance is 1.04 which is well within the parameters stated in the development plan. In respect of site coverage lands covered by the Z1 zoning permitted an indicative site coverage of 45 to 60%. The site coverage in the case of the current application is 47% again within the parameters set in the development plan.

With regard to public open space provision the standard permitted in the development plan is 10% of the site area. This would equate to 70 square metres in the case of the current site. The architect's design statement indicates that private communal open space as part of the proposal amounts to 174 square metres. Therefore, in terms of the overall parameters set out in the development plan for the quantum of development which would be permitted on the subject site, the proposed development complies with the indicative standards set out.

11.2.3. With regard to private amenity open space, provision the development plan stipulates that in relation to proposals for houses within the inner city, a standard of 5 to 10 square metres of private open space per bedspace will normally be provided. Each of the bedrooms provided in all five dwellings constitute double sized bedrooms as each of the rooms equate to or exceed the minimum floor area set out in the development plan of 11.4 sq.m. for double bedrooms. Therefore, in the case of the three bedroomed houses to the rear between 30 and 48 square metres of private open space will be required for each of the dwellings. The larger two-bedroomed dwellings fronting onto Orwell Road would require between 40 and 64 square metres of private open space.

11.2.4. The dwellings to the rear fall somewhat short of this standard albeit marginally. The applicant seeks to address this issue in the grounds of appeal by omitting a number of car parking spaces in order to provide additional private open space to the front of the dwellings in question. I would argue against such a redesign on the basis that I

consider it appropriate that one car parking space will be provided for each of the dwelling units in accordance with development plan standards. Furthermore, I consider the increase in private open space would significantly reduce communal and circulation space to enable cars to manoeuvre within the site while gaining access and egress onto Washerwomans Lane.

11.2.5. I consider that the Board could exercise its discretion in relation to private open space having regard to the fact that the proposal falls marginally below the stipulated standards in the development plan and the fact that the National Planning Framework advocates a more flexible approach in applying standards particularly in relation to infill developments on brownfield sites where higher densities can be achieved. The Board could also in my opinion consider reducing the size and scale of the development from three-storey to two-storeys with the consequential reduction in bedspaces which in turn would necessitate more modest private open space for the dwellings concerned.

11.2.6. With regard to overlooking, having regard to the tight configuration of the site together with the surrounding residential development located in close proximity to the site, it is inevitable in my view that some level of overlooking would occur with any redevelopment of the site. I also consider that the overall design has endeavoured to minimise the potential for overlooking by ensuring that no windows are proposed on the gable ends of the dwellings which would directly overlook the apartment block above Supervalu on the northern side of Washerwomans Lane and would directly overlook the Stratford Haven housing development to the south. The windows serving habitable rooms are oriented in an east-west direction. Notwithstanding this orientation, there is inevitably some potential for overlooking of adjoining residential development. The greatest potential for overlooking arises from the second floor of House Nos. 1 and 2 into the rear gardens of House Nos. 10 and to a lesser extent 12 Stratford Haven. I note that the rear of No. 10 incorporates a glass conservatory. The applicant proposes to address this issue by increasing the overall height of the window to 1,050 millimetres above ground floor level at second floor. This in my view does not adequately reduce the potential of overlooking into the rear gardens in question.

11.2.7. An issue in relation to overlooking also arises at first floor level of house no. 1 and 2. I consider that a more fundamental redesign of the dwellinghouse is required in order

to adequately address issues in respect of overlooking. It would in my view be more appropriate to consider the construction of a two-storey dwellinghouse on the subject site with a reconfiguration of fenestration arrangements in order to address the issue of overlooking. While some level of overlooking is inevitable, the provision of a three-storey structure which incorporate bedroom windows at second floor level, which are less than 10 metres from the site boundary, is in my view inappropriate and would seriously detract from existing residential amenities of residential dwellings in the vicinity - most notably Nos. 10 to 16 Stratford Haven.

- 11.2.8. With regard to the issue of overshadowing I note that the applicant has submitted a daylight and sunlight overshadowing analysis. The analysis indicates that the overshadowing would not be that significant over and above that which already exists having regard to the built-up nature of the lands surrounding the site. The levels of shadowcast in the evening time will be somewhat enhanced with the presence of the proposed development particularly in respect of the rear garden of Nos. 7 and 8 and Nos. 10, 12, 14 and 16 Stratford Haven. It is my considered opinion that the increase in the level of overshadowing would be generally acceptable. However, the reduction of the buildings from three-storey to two-storey would obviously reduce the potential for overshadowing of adjoining gardens.
- 11.2.9. With regard to the overbearing nature of the proposed development I would have significant concerns in relation to the three-storey nature of the buildings proposed to the rear of the site, particularly in terms of the impact on Nos. 12, 14 and 16 Stratford Haven. As already pointed out in my assessment these rear gardens are modest in size ranging in length from 5 to less than 10 metres in length. In the case of House No. 5 which is located contiguous to the common boundary to the rear of the site, it is proposed to construct a blank gable which will be 10 metres in width and rise 10 metres in height. Having regard to the modest depth of the gardens in question I would consider the height and scale of the proposed three-storey structure to be excessive and would have an unacceptable overbearing impact on the properties in question.
- 11.2.10. Arising from my assessment above therefore I consider that the three-storey nature of the proposed development would give rise to an unacceptable level of overlooking of the rear properties of Nos. 10 and 12 Stratford Haven and House No.

5 would have an unacceptable overbearing impact on the rear gardens of Nos. 12 and 14 Stratford Haven.

11.2.11. With regard to the visual impact concern is expressed in both the Planning Authority's reason for refusal and a number of observations submitted in relation to the proposed roof profile of dwellings Nos. 1 and 2 fronting onto Orwell Road. I have consulted the photomontages contained on file and I consider that the overall design approach including the three-storey element together with the proposed roof profile fronting onto Orwell Road to be acceptable in visual amenity terms. I think the overall size and scale of the building sits well within the urban environment in which it is set. While I have concerns in relation to the impact of the three storey nature of the proposal in terms of its impact on surrounding visual amenity; aesthetically I consider the building to be appropriate. With regard to its impact on the scale and character of Rathgar Village, I acknowledge that Rathgar Village is predominantly two-storey however, there are three-storey buildings within the village including a number of three-storey buildings at the corner of Rathgar Avenue and Terenure Road East. The Board will also note that the Supervalu building to the immediate north of the subject site incorporates a three-storey element albeit the three-storey part of the building is setback from the public road. I note that the subject site and its surroundings are not located within a Residential Conservation Area or an Architectural Conservation Area. I further note that there are no protected structures contiguous or adjacent to the subject site. This in my view allows more flexibility in terms of architectural expression and I do not consider that a contemporary style intervention such as that proposed including the roof profile is inappropriate on the subject site. The proposal would in my view provide an appropriate architectural statement and provide a building of appropriate scale which demarcates the commercial area of the village from the predominantly residential and institutional uses further south along Orwell Road and Zion Road.

11.3. Traffic and Pedestrian Safety Issues

11.3.1. Concerns are expressed that the access and egress arrangements to and from the site are unsatisfactory primarily on the basis that Washerwomans Lane is a narrow lane that facilitates access to an underground car park associated with the Supervalu supermarket and any proposed development on the subject lands will exacerbate this problem.

11.3.2. The subject site is zoned for residential development and it is therefore the Planning Authority's objective to redevelop the derelict site in accordance with the zoning provisions set out in the development plan. The traffic generated by an additional five dwellings would be negligible in the context of existing commercial accessing the car park. The laneway in question ends in a cul-de-sac and therefore does not generate/accommodate significant volumes of traffic beyond the access to the car park. I am satisfied having inspected the site that the proposed access and egress arrangements are appropriate from Washerwomans Lane. While one of the observations expressed concerns that the traffic in question traverses the footpath on Orwell Road it should be borne in mind that the laneway in question already provides access to a commercial car park. The traffic generated by an additional five dwellings should not be refused planning permission on the basis that traffic generated by it would traverse a footpath.

11.4. Other Issues

11.4.1. Concern is expressed with the removal of Orlando House a mid-19th century dwellinghouse which has since fallen into disrepair and is currently in a derelict condition. One of the observations submitted argued that this building has been a feature of the approach to Rathgar Village for a very long time. I note that the building in question is not listed on the Record of Protected Structures. A conservation assessment submitted with the grounds of appeal (see Appendix No. 7) describes the property in detail and concludes that the structure is generally in a poor condition with evidence of water damage, fungal infestation and general decay. There has also been a number of more modern extensions. For these reasons the conservation report considers the building not to be of great heritage significance. Furthermore, I note from the planning history that planning permission has been granted previously on site for a small apartment development and thus the demolition of the building has already been accepted in principle. I do not consider that there is a significant amount to be gained in terms of visual amenity or architectural/historical heritage by retaining the said building on site. Greater planning gain is derived in my opinion from the more comprehensive redevelopment of the site in question as a small infill/backland residential scheme.

11.4.2. An observation also submitted notes that the subject site is located in a zone of architectural potential. This point is accepted, and if the Board are minded to grant

planning permission for the proposed development an appropriate archaeological condition should in my opinion be attached.

- 11.4.3. Finally, the Board will note that if it is minded to grant planning permission for the proposed development the site being less than 0.1 hectare would not be subject to the requirements of Part V in relation to social and affordable housing.

12.0 Conclusions and Recommendation

Arising from my assessment above, I consider the principle of an infill residential development on the subject site is appropriate. However, I consider the size and scale of the buildings in question particularly the three-storey nature of the buildings will have significant and adverse impacts on surrounding residential amenity. The size and scale of the structures will in, the case of House Nos. 1 and 2 give rise to excessive overlooking of the rear gardens of Nos. 10 and 12 Stratford Haven while the size and scale of the gable of House No. 5 will have an excessive overbearing impact on the adjacent dwellings of Nos. 12 and 14 Stratford Haven. I consider the site is suitable to accommodate five dwellings. However, the size and scale of the individual dwellings in my opinion are excessive and two-storey dwellings would be more appropriate on such a confined site and would result in a development of a size and scale which would be more commensurate in terms of character with adjacent development. For this reason, I would recommend that the Planning Authority's decision be upheld in this instance and planning permission be refused for the development for a single reason set out below.

13.0 Appropriate Assessment

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

14.0 Decision

Refuse planning permission for the proposed development based on the reasons and considerations set out below.

15.0 Reasons and Considerations

1. It is considered that the proposed dwellinghouses being three-storeys in height are of excessive scale and size and will have a significant overbearing impact and will give rise to excessive overlooking of the adjoining properties along the southern boundary of the site at Stratford Haven. The proposed development would therefore seriously injure the amenities and depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector.

13th May, 2019.