



An
Bord
Pleanála

Inspector's Report ABP-303682-19

Development	Demolition of warehouse & construction of 12 residential units.
Location	Lands to the rear of 46-64, South Dock Street, Ringsend, Dublin 4, D04 C7F8
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3500/18
Applicant(s)	BP Development Projects Limited.
Type of Application	Permission.
Planning Authority Decision	Grant Permission subject to conditions.
Type of Appeals	(1) First Party Appeal v Condition 3(i) (2 & 3) Third Party Appeals v Grant
Appellant(s)	(1) BP Development Projects Limited. (2) Hastings Street Group (3) Shelbourne Park Residents Association

Observer(s)

Michael Fitzsimons, 82 South Lotts Road

Helen Feely & other residents of South Dock Street, Anne Reid, Vera Kavanagh Debbie Kavanagh, Dermot O Donnell, Samuel and Elizabeth Flynn, John & Katie O Riordan, Paul Kavanagh & Adrienne Kavanagh, Bebhinn Dunne & Gavin O Donnell, Anita Dunne & Family. Joan Kelch & Family, Marie Fitzpatrick & Family.

Date of Site Inspection

30th May 2019.

Inspector

Bríd Maxwell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.18ha and comprises a brownfield site occupied by a two-storey industrial warehouse type building and is located in Ringsend, Dublin 4. The site is backland in nature surrounded by residential properties and is bounded to the south by Nos 46-64 South Dock Street, to the north by Nos 1-23 Hastings Street, to the east by the rear of properties located at Nos 82-104 South Lotts Road and to the west by properties located at No 1-19 South Dock Place. The existing building on site is an A Frame industrial/ warehouse type structure with two side lean-to type extensions and extends to 10.85m high at its ridge. The rear boundary wall of the existing residential properties on Hastings Street to the north and South Dock Street to the south abut the boundary walls of the subject structure. The existing building on site has been in use as a car showrooms (Gordon Kellet Saab) for more than 20 years and prior to this it functioned as a car assembly plant. Access and egress are provided from two long established separate entrances on South Dock Street in a counter clockwise direction. There is a short strip of surface car parking along the western boundary of the site.
- 1.2. The urban grain of the area is characterised by terraced two storey residential properties. The existing terraces surrounding the application have generally been extended at ground level such that few retain any rear garden or rear yard. Some have also been extended at roof level with dormer extensions. South Dock Street People's Park is located approximately 20 metres west of the site while Shelbourne Park is a short distance to the east.

2.0 Proposed Development

- 2.1. The proposal comprises demolition of the existing building and the construction of thirteen no residential units. The layout involves a part two-storey and part three-storey terrace of ten units positioned to the north of the site, two no two storey three bed courtyard detached units positioned to the south of the site and one no residential unit (two bed) fronting onto South Dock Street adjoining the existing terrace and residential dwelling no 46.

- 2.2. The proposed terrace will comprise of seven no three storey, three bed units and three no two storey, two bed units, one to the western end of the terrace and two to the eastern end of the terrace.
- 2.3. The proposed units along the northern boundary are setback from the rear boundary of the existing residential unit along Hastings Street by 6m. The detached houses to the south of the site adjacent to the site boundary and within approximately 5m of the rear wall of dwellings on South Dock Street.
- 2.4. The proposed finish is a mixture of coloured brick and render to walls, painted timber frame windows and traditional slate to the roof.
- 2.5. The site will be accessed from the eastern part of the site via the existing access between No 64 South Dock Street ad the rear of No 82 South Lotts Road. Egress is provided for separately through the existing entrance to the site between No 46 South Dock Street and the rear of No 1 South Dock Place to the west of the site. Each of the proposed units will contain private open space areas between 24 sq.m and 45 sq.m. 12 no car parking places are proposed to serve the development. The 3 storey units have under croft car port at ground level to provide a direct car parking space to the associated unit. Five spaces are facilitated at surface level within the development. Cycle parking also provided.
- 2.6 Application details that the applicant has entered into initial discussions with the Housing Department of Dublin City Council in respect to Part V. The applicant agrees to accept a condition on a grant of permission
- 2.7 The proposal is set out in its detail within the application and accompanying documents which include :
- Site Specific Flood Risk Assessment, DBFL Consulting Engineers, June 2018
 - Infrastructure Design Report, DBFL Consulting Engineers, June 2018

- Preliminary Demolition Management and Construction Management Plan DB DBFL Consulting Engineers, June 2018
- Screening Report for Appropriate Assessment, Open field Ecological Services, July 2018.
- Design Statement David Smith Architects, June 2018
- Planning Report John Spain Associates, July 2018

2.8 In response to the Council's request for additional information some amendments were made to the proposal including reduction in the height of the louvres on the northern boundary (from 2m to 1.6m). The first-floor windows on the rear elevation of the proposed terrace of houses facing properties on Hastings Street were reduced in scale both in height and width to address perceived overlooking concerns. Second floor window serving landing also reduced in scale to an opaque narrow window. The main window at this level proposed as an angled window to direct view away from residential units opposite. Other amendments to the scheme included omission of the electric gates and revisions to boundary treatment. The rear façade of the terrace of ten houses was also revised to improve visual interest with provision for brick detailing consistent with the front elevation.

2.9 I note that within the first party response to the appeal an alternative layout was submitted reducing the rear terrace to a total of nine dwellings thereby increasing the setback from the eastern and western site boundary with dwellings fronting onto South Dock Place and South Lotts Road respectively.

3 Planning Authority Decision

3.1 Decision

3.1.1 By order dated 15th January 2019, Dublin City Council issued notification of its decision to grant permission for the development and to which 16 conditions were attached which included the following of particular note.

Condition 2. Special Contribution €4,000 per residential unit in respect of public open space in accordance with Section 48 2(c) of the Planning and Development Act 2000.

Condition 3. Prior to commencement of development revised plans showing omission of residential units at either end of the terrace (identified as No 1 and No 10) Omission of the reverse hardwood louvres along the boundary with Hasting Street and to submit instead a planting scheme which provides screening to the boundary.

I note that the decision did not include a condition in respect of the Section 48 Development Contribution Scheme. Neither did it include a condition in respect of Part V agreement.

3.2 Planning Authority Reports

3.2.1 Planning Reports

3.2.1.1 Initial Planner's report expressed the view that height of the proposed units is not unacceptable at three storeys given that this is same as the existing warehouse unit. Report recommended seeking additional information noting concern regarding the scale of the first-floor dining room windows given limited separation distance to opposing first floor window on Hastings Street. Concerns also expressed regarding the visual impact of the proposed reverse louvers privacy screens to boundaries. Further details were also required in respect of proposed secure bin store and detailed landscaping measures. Concern was expressed that the rear façade of the terrace in render is bland. Proposal for sliding electric gate to the rear of the property No 86 South Lotts Road was deemed not to be acceptable.

3.2.1.2 Final Planner's report considers the further information to be largely satisfactory. Reverse louvres considered would negatively impact on visual amenity and should be omitted. Terrace also considered to be excessively long and should be set in from east and west boundaries therefore the end units should be omitted. Permission recommended subject to conditions.

3.2.2 Other Technical Reports

3.2.2.1 Engineering Department Drainage Division. No objection subject to compliance with the Greater Dublin Regional Code of Practice for Drainage Works Version 6.

3.2.2.2 Roads, Streets and Traffic Department report. No objection to loss of one on street car space these works to be carried it at the expense of the applicant in consultation with Traffic Advisory Group. Conditions recommended including agreement regarding parking layout and one-way system.

3.3 Prescribed Bodies

3.3.1 No submissions

3.4 Third Party Observations

3.4.1 A number of submissions from third parties raise concerns with regard to the following:

- Discrepancy in number of units.
- Overdevelopment.
- Excessive height.
- Traffic Hazard. Pedestrian safety
- Noise and disturbance.
- Gated entrance.
- Waste management.
- Structural impacts - subsidence. Boundary wall damage.
- Security risk. Privacy issues.
- Asbestos hazard.
- Ground floor car port and PV Panels out of character.
- Historically consistent refusals for second floor development to rear of properties.
- Light impact.

- Inaccuracies in drawings regarding boundaries.
- Vibration and dust monitoring.
- Damage to and overloading of foul and surface water services in the area.
- Overdevelopment within the local area. 33 current construction sites.

4 Planning History

1278/00 Planning permission granted for “Replacement of existing roof cladding on the southern (lower) lean-to roof with new profiled pre-finished metal cladding, replacement of existing high level glazing new over-cladding to existing western (front) gable elevation and new double height glazed ‘showroom’ window with modifications to 2 no existing window opes and other sundry modifications to existing car park/forecourt including new steel suspended barrier and vertical steel tubular shaft and new pedestal sign at the entrance at existing motor showroom/ maintenance garage at Gordon Kellet Motors, South Dock Street and b) refurbishment and reinstatement to residential use of existing house and reinstatement of rear garden at no 46 South Dock Street.

5 Policy and Context

5.1 National Policy

5.1.1 Project Ireland 2040 – National Planning Framework

5.1.1.1 The National Planning Framework includes a specific Chapter, No. 6, entitled ‘People Homes and Communities’. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 seeks to increase densities 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.

5.1.2 S28 Ministerial Guidelines.

- Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities. Department of Environment, Heritage and Local Government, May 2009.
- Urban Design Manual A best practice Guide. May 2009.
- Design Manual for Urban Roads and Streets, DMURS
- The Planning System and Flood Risk Management (including the associated 'Technical Appendices') Dept Environment Heritage and Local Government November 2009.
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities – Department of Housing Planning and Local Government March 2018
- Urban Development and Building Height Guidelines, Department of Housing Planning and Local Government, December 2018

5.2 Development Plan

5.2.1 The Dublin City Development Plan 2016-2022 is the operative Plan.

The site is zoned Z2 "*To protect and/or improve the amenities of residential conservation areas*". Residential development is permitted in principle in this zone.

The site is zoned Z1. The objective is "*to protect, provide and improve residential amenities*"

Other relevant policies and standards include:

Section 16.2.1 Design Principles.

Section 16.2.2.2 Infill Development.

Section 16.10.2 & 16.10.3 Residential Quality Standards – Houses.

Section 16.10.8 Backland Development.

In terms of parking requirement, the site is within Area 2 Map J of Dublin City Development Plan where maximum spaces is 1 per residential unit.

5.3 Natural Heritage Designations

The site is not within a designated area. The nearest Natura 2000 sites are

South Dublin Bay and River Tolka Estuary SPA. 2km

South Dublin Bay SAC. 1.5km

5.4 EIA Screening

- 5.4.1 Having regard to the nature and scale of the proposed housing development on zoned and serviced land, and to 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.

6 The Appeal

6.1 Grounds of Appeal

- 6.1.1 The first party appeal relates to Condition 3(i) and the grounds of appeal are summarised as follows:

- Request that the Board exercise its discretion under Section 139 of the Planning and Development Act 2000 as amended to restrict its consideration to the appropriateness of the condition subject to the appeal only and direct the council to grant permission with condition 3(i) omitted.

- Condition is unsustainable unwarranted and unjustified and at variance with National Planning Policy which promotes increased densities and delivery of residential units in urban areas.
- The proposed development will make a positive contribution to the delivery of high-quality residential units in the current housing crises and will make a positive contribution to the architectural quality and residential amenity of the area. The proposal provides a mix of units catering to a range of life cycles including family units.
- No significant impact on the surrounding residential amenity or properties in the area. Full assessment submitted as part of the application / in terms of overlooking, overbearing , overshadowing and visual amenity.
- The two units subject to omission by condition 3(i) were reduced in height to 2 no storeys to ensure that the scale of the development was in keeping with existing residential units at the gable end of the development. No gable windows to ensure no potential for overlooking.
- Existing warehouse is significantly larger in scale and occupies a significantly greater proportion of the site area than the proposed house units. The overall sense of scale and mass I therefore reduced by the proposed development.
- Unit type C located to the south of the site is sited in the same arrangement of the units to be omitted with gables adjoining boundary walls.
- Majority of adjoining properties benefit from single storey extensions extending the full depth of their rear garden therefore no overlooking impacts.
- Precedent cases similar arrangement PL29S118976 3833/99 Barrow Street Apartment, PL29S246312 2292/15 The Ropery, South Lotts road.
- Computer Generated Images CGIs submitted with the application demonstrate that the proposed development is a high-quality residential scheme and provides for variation and interest in the elevation so as to avoid any monolithic appearance or create the perception of a significantly long stretch of housing. Long terraces of houses are well established in the surrounding area forming historic part of the development.

- The proposed density of the units 13 equates to 69 uph which is considered appropriate. The condition reduces density to 57.9UPH. Site coverage will be reduced to 35% of the overall site well below standard of 45% set in development plan.
- Results in scarce urban land zoned for residential development being unused and may result in piecemeal development in the future.
- Resulting open space arising from the two units is too small to provide for amenable public open space and will result in land incorporate into private open space.

6.2 Third Party Submissions

6.2.1 There are two third Party Appeal by “Hastings Street Group” and Shelbourne Park Residents Association. Both appeal submissions raise common issues and grounds which are summarised as follows:

- Welcome removal of two gable houses which reduces scale of overlooking.
- Welcome removal of reverse louvers and requirement for more appropriate natural screening.
- Development should not be gated to ensure integration.
- Concerns in relation to subsidence. Pre-construction survey of dwellings required.
- Management of dust during asbestos removal.
- Privacy, security and overlooking.
- Three storey dwellings are out of character. Not comparable to previous industrial unit given hours of operation, absence of overlooking windows and gradual height achievement.
- Infill development should complement the prevailing scale and architectural quality.
- Impact on daylight and views.

- Additional measures required to dining room and bedroom windows to address overlooking.
- Concern regarding electronic gate. Open access laneway from South Dock Street would give rise to impact on privacy. Noise and disturbance anti-social behaviour on laneway.
- Waste Collection on South Dock Street South Dock Place
- Omission of proposed house beside no 46 South Dock Street would allow for a two-way entrance.
- Location in quiet residential area construction hours commencing 07:00 am too early.

6.3 Applicant Response

6.3.1 The response to the third party appeals by John Spain Associates on behalf of the First Party is summarised as follows:

- Without prejudice to the first party appeal, an alternative layout of scheme is submitted as part of the appeal response to address third party concerns. Alternative layout provides for a terrace of 9 no units which has been set back c3m from both eastern and western boundaries.
- Principle of development is acceptable given compatibility with zoning objective. Proposal does not represent overdevelopment.
- Proposal has been designed in the context of existing urban location in terms of separation distance, potential overlooking, and level of privacy.
- First floor windows on rear elevation of the proposed terrace facing properties on Hasting Street reduced in scale and height and width to address perceived overlooking.
- Having regard to the development plan and surrounding context of the development a separation distance of 11m from opposing first floor windows has been accepted in dense inner-city locations. Existing conditions in immediate surrounding area provides a separation distance between

opposing rear elevations of between 9m (Hastings Street and Ringsend Street) and 14m (South Dock Street and Penrose Street).

- As regards height, the majority of properties on Hasting Street have converted attic space. Three storey height is not out of character.
- Refute appellants claims regarding negative impact on sunlight and daylight. Detailed analysis concluded not significant negative impact in terms of overshadowing, daylight or sunlight.
- Sliding electric gate omitted to address concerns.
- No evidence of anti-social behaviour
- One-way traffic system designed to provide safe access and egress
- Swept path analysis for emergency vehicle detailed in infrastructure design report.
- Specialist Asbestos removal contractor will be engaged to remove sheet asbestos roof.
- Applicant willing to undertake survey of some of the houses with permission of owner prior to commencement of works on site. Stabilisation measures will be provided where necessary.
- Flood risk assessment concluded that the site would not be subject to flooding. Further condition 12(ii) included condition for further flood risk assessment to address the impact of 20% climate change, this will be undertaken.
- Traffic during construction phase managed in accordance with construction management plan.
- Standard hours of construction envisaged.
- Waste management plan will address concerns regarding operational management.
- Precedent cases for infill development include 3164/18 Emerald Cottages, Dublin 4, 2292/15 PL29S246312 The Ropery, South Lotts Road. 3833/99 PL29S118976 Barrow Street Apartments.

6.4 Planning Authority Response

6.4.1 The Planning Authority did not respond to the grounds of appeal.

6.5 Observations

6.5.1 There are two third party submissions to the appeal. The first from Michael Fitzsimons, 82 South Lotts Road expresses concern regarding risk of subsidence on houses on South Lotts Road which have no foundations. Requests survey of home. Noise disturbance, anti-social behaviour and loitering at the entrance, waste storage. Relocation of gate down laneway will create security risk.

6.5.2 Helen Feely & other residents of South Dock Street, Anne Reid, Vera Kavanagh Debbie Kavanagh, Dermot O Donnell, Samuel and Elizabeth Flynn, John & Katie O Riordan, Paul Kavanagh & Adrienne Kavanagh, Bebhinn Dunne & Gavin O Donnell, Anita Dunne & Family. Joan Kelch & Family, Marie Fitzpatrick & Family. Concerns in relation to : devaluation of property, siting of bin store, safety. Gates resulting in noise, loitering anti-social behaviour. Traffic and health and safety impacts during construction and asbestos hazard. Impact on privacy, overlooking. Proposed construction of house 13 will restrict field of vision. Demolition damage and subsidence.

6.6 Further Responses

6.6.1 Response by Hastings Street Group further to the first party appeal and response is summarised as follows:

- Question the assertion that reduction in density is unsustainable.
- Large bedroom window and living room window result in overlooking. Alternative use of Velux windows should be considered.
- Distance is half the recommended distance to dwellings.
- Previous use did not have overlooking windows and daytime occupancy
- Numerous previous decision refusals on basis of height.
- Tidal ground would limit height.

- Additional effort required to alleviate visual intrusion to personal space.

7 Assessment

7.1 Having examined the file, considered the prevailing local and national policies, inspected the site and assessed the proposal and all submissions, I consider that the key issues arising in this appeal can be considered under the following broad headings:

Principle of Development - Question of overdevelopment

Quality of Design and Layout

Impact on Established Residential Amenity

Traffic, Access and Parking

Servicing and Flooding

Appropriate Assessment

7.2 Principle of Development – Question of overdevelopment

7.2.1 As regards the principle of development the site is zoned Z1 – the objective “to protect, provide and improve residential amenities”. The site is centrally located within easy walking distance of high-quality public transport in an existing fully serviced area. The proposal seeks to replace a current non-conforming use (currently vacant) on the site and provide for residential development on the site in order to expedite the more efficient use of currently underutilised serviced land. The National Planning Framework advocates more compact growth utilising existing infrastructure, improving the visibility of public transport and services and creating an urban environment which facilitates more healthy and sustainable trip patterns such as cycling and walking.

7.2.2 On the question of overdevelopment and in considering the somewhat crude measures of same, I note that the proposal provides for a plot ratio of 1:08 within the parameters set out in the development plan (between 0.5 and 2.0) while site coverage is 41% (slightly below the indicative site coverage set out in the development plan). As regards height I note that the proposal shows no increase in height compared to the existing showroom building on the site. As regards density the proposal equates to 69 units per hectare. Given the central location of the site the site would be considered to be an appropriate location to facilitate higher densities. I consider that the proposal is in accordance with national and local policy and is in line with the National Planning Framework with regard to the sustainable development of infill sites. I am of the opinion that given its zoning, the delivery of residential development on this underutilised site is generally consistent with the policies of the Development Plan, the NPF and Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness in this regard. It is therefore appropriate to assess the merits of the proposal in its detail.

7.3 Quality of Design and Layout.

7.3.1 As regards the issue of residential amenity of the proposed dwelling units, I note that the floor areas of the proposed dwellings are reasonably proportioned in terms of internal space standards and meet the standards set out in 2007 Quality Housing for Sustainable Communities Best Practice Design Guidelines. I note that the development plan standard seeks 5-8 sq.m of private open space per bedspace within the inner-city area. Private open space provision varies from 31-45 sq.m for main terrace units and 38sq.m for courtyard units and 28 sq.m for proposed house fronting South Dock Street. A reasonable standard of residential amenity is provided for in my view.

7.3.2 The proposed design whilst contemporary in character takes some reference from the established character in the area. In my view the proposal provides for an appropriate infill and presents positively to the public realm. Given the scale and nature of the site it is in my view appropriate for the development to set its own style

and I consider that the overall design approach is acceptable in visual amenity terms. The overall size and scale of the structures fits in well within the context and is aesthetically appropriate with regard to the established scale and character of the area. I note that back to back separation distances to properties on Hastings Street are restricted (11m between opposing first floor windows) however the established local context provides limited separation distance between properties, therefore I consider that a reduced separation distance can be considered subject to appropriate mitigation in terms of overlooking. I note that the Development Plan and NPF advocate compact growth and flexibility on design and density within the urban core context to facilitate urban infill and to ensure better use of under-utilised land. The proposal can be considered positively in this context.

7.3.3 On the matter of the First Party Appeal of Condition 3(i) requiring omission of both end of terrace units. This condition arose from concerns with regard to the length of the terrace, deemed to be excessive. I note the revised layout submitted in response to the third-party appeal which reduced the proposed terrace to a total of 9 dwellings thereby increasing the setback from the adjacent established dwellings on South Dock Place and South Lotts Road to the west and east respectively. In my view the increased setback improves the relationship to adjacent structures and sets the terrace more appropriately into its context. I acknowledge the contention by the first party that terraced dwellings are a predominant feature in the vicinity of the site and note that the proposed layout provides for variety and animation within the terrace to ensure visual interest.

7.3.4 As regards public open space provision the development plan standard would require 10% of site area. The proposed layout does not provide any public open space, noting location of a public park 20m west of the site and the inability of the site to provide any significant usable area of open space to serve the development. Having regard to the characteristics of the site and character of development in the vicinity, I consider that it is appropriate that flexibility apply in terms of standards for public open space provision. Based on the site zoning and context and ready accessibility of the location to the adjacent park and a number of other existing open

space amenities, it is reasonable to exclude on site provision. I note that the local authority imposed condition 2 requiring a payment of €4,000 per residential unit as a special contribution in lieu of open space provision and this is appropriate.

7.3.5 As regards the performance of the proposal in terms of analysis in the context of the 12 criteria for sustainable urban development as set out in the Urban Design Manual, I am satisfied that the proposed layout performs positively.

7.4 Impact on Established Residential Amenity.

7.4.1 The third-party appellants express concerns regarding overshadowing, overbearing impact and overlooking. As regards overshadowing I note the Sunlight Daylight Analysis by Arc Architectural Consultants Ltd. The report notes that having regard to the modest scale of the development the potential for the proposed development to result in overshadowing is largely limited to neighbouring lands at the eastern side of South Dock Place, the southern side of Hastings street and the western side of South Lotts Road. The analysis shows that the construction of the development will result in an imperceptible to slight additional overshadowing of lands to the rear of South Dock Place during the mornings and early afternoons throughout the year. During the afternoons and evenings throughout the year the impact of shadows cast on lands to the rear of Hastings Street and South Lotts Road is likely to range from imperceptible to slight. The change to the existing shadow environment is likely to be minor as houses surrounding the site are already overshadowed by the existing commercial warehouse.

7.4.2 All windows with a reasonable expectation of sunlight within the existing buildings will continue to receive a level of sunlight in excess of the level recommended by the building research establishment's "Site layout planning for daylight and sunlight: A guide to good Practice" (BRE Guide) 2011 to achieve an appearance of adequate sun lighting over the course of the year after construction of the development. Therefore, the proposed development is not predicted to result in any undue adverse impacts on sunlight access to the surrounding area". As regards daylight access the proposed development will result in little or no change in daylight access. The impact

on daylight within neighbouring buildings is predicted to range from none to imperceptible. I regard the analysis undertaken to be reasonable and having regard to orientation and design of the development I consider that overshadowing is largely imperceptible.

7.4.3 As regards overlooking, having regard to the tight configuration of the site and surrounding residential development located in close proximity to the site, some level of overlooking is inevitable in any redevelopment of the site. I note the relationship to the adjacent dwellings on Hasting Street where a separation distance of 11m between opposing second floors and third floor level of the proposed terrace is proposed. I note that the dwellings on Hasting Street are set back in terms of the main body of the dwellings, within 5m of the appeal site boundary and have largely been extended at ground floor level to enclose entire rear yards. A number of these properties have also been extended into attic space with various dormer windows inserted in the roof-space. I note the efforts within the scheme which seek to mitigate overlooking impacts. Restricted aspect is provided at second floor oriel windows to bedrooms and the scale of the proposed dining room window at first floor level was reduced and a high-level kitchen window provided during the course of the application to the Council. Whilst additional measures might be provided to restrict the aspect from the rear facing dining room windows at first floor level, the benefit arising may be outweighed in terms of loss of amenity to the proposed dwellings. I note also the proposal to provide reverse hardwood louvres along the site boundaries however I would have some concerns that these may give rise to maintenance issues, may be unacceptable to some established residents and may give rise to a negative visual impact. In this regard I consider that soft landscaping measures may be more appropriate in this context. As regards proposed house type C, the courtyard units, the preservation of established residential amenity will require an assurance that flat roofed area remains inaccessible. Given the restricted site area it is also recommended that future development within the site is strictly controlled. Having regard to the planning gain arising from the removal of the existing structure on the site and subject to the provisions as outlined, I consider that the proposal will not lead to an unacceptable level of overlooking or loss of privacy.

7.4.4 As regards construction impacts including noise and disturbance, structural issues or subsidence any such issues arising can be appropriately mitigated by way of best practice construction methods and the first party has outlined a commitment in this regard. Asbestos roof sheeting to be removed by a specialist contractor. As regards third party concerns with regard to security and antisocial behaviour I note that whilst the context of established dwellings will change there is no evidence or reason to predict that the proposed development will give rise to any increased risk of disturbance. As regards the impact of bin storage and refuse collection, I consider that standard good management no negative amenity impacts should arise. Having considered the details of the design and layout I consider that the proposed development is acceptable in terms of its impact on established residential amenity.

7.5 Traffic, Access and Parking

7.5.1. I note the Infrastructure Design report by DBFL Consulting Engineers which addresses the traffic issues. The proposal provides for a one-way traffic system with access and egress to South Dock Street. Parking is provided, one space per dwelling, save for the proposed house fronting South Dock Street. I note that the initial proposal to provide a sliding gate along the entrance was omitted in response to the request for additional information, although it reappears in the layout subsequently submitted to the Board in response to the third-party appeals. Given the potential disturbance to adjacent established dwellings and in the interest of integration it is appropriate that this be omitted. I am satisfied that given the extent of traffic arising from the proposal the proposed development is acceptable from a traffic and parking perspective.

7.6 Servicing Flooding

7.6.1. As regards servicing, technical reports on file raised no specific concerns in terms of public sewer capacity and public water supply. As regards flood risk the site-specific

flood risk assessment by DBFL Consulting Engineers notes that the site is located within Flood Zone B which covers an extensive area of flooding caused by overland flows originating from the River Dodder to the east. The justification test carried out notes the 1% AEP fluvial flood level is 1.6mAoD for the site.

7.6.2 The report provides analysis by way of the justification test and asserts that the proposal meets the criteria as set out. The site is zoned for residential development and subject to the Dublin City Development Plan Strategic Flood Risk Assessment. The site is defended against the 0.1% AEP Flood event. As regards increasing flood risk elsewhere as the proposal replaces an existing garage /showroom which has a larger footprint than the accumulative footprint of the proposed dwellings. Attenuation measures will provide an improvement to local drainage. Measures to reduce and minimise risk have been incorporated including setting of floor and road levels considering the 1% AEP flood level. Finished floor levels for the dwelling have been set with a freeboard of 600mm save for house 16 which has freeboard of 300mm above 1% AEP Flood Level (Level is lower to tie into existing house levels on South Dock Street) . Levels of residual risk are acceptable in line with Dublin City Development Plan Strategic Flood Risk Assessment. Proposed external levels ensure overland flood route drainage away from the development towards South Dock Street. The proposed storm water system ensures no increase of flood risk to surrounding properties for up to the 1%AEP plus climate change event with underground attenuation storage provided and controlled discharge meeting the drainage requirements of the Greater Dublin Strategic Drainage Study.

7.7 Appropriate Assessment

7.7.1 On the matter of appropriate assessment, I note the AA screening report compiled by OPENFIELD Ecological Services. The screening report notes that the only pathway from the site to the South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC is via surface water flows to Dublin Bay. It is not considered likely that the development can result in significant effects to the SAC or SPA. Having regard to nature and scale of the proposed development the fully serviced

nature of the site and proximity to the nearest European site, no appropriate assessment issues arise, and it is not considered that the proposal would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.8 Recommendation

7.8.1 The proposed development on lands zoned Z1 is acceptable in terms of land use planning and sustainable development. The proposed infill replacing a non-conforming use is appropriate in the context of the site and in terms of its impacts on the surrounding area. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and consideration and subject to the conditions set out below:

Reasons and Considerations

Having regard to the Z1 zoning objective for the area, the central location, the design and form of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be generally in accordance with the Dublin City Development Plan 2016-2022, would not seriously injure the amenities of adjacent residential neighbourhoods or of the property in the vicinity, would not be prejudicial to public and environmental health and would be acceptable in terms of traffic safety and convenience. The proposed development would therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further information submitted on 29th day of November 2018 and by further plans and particulars received by An Bord Pleanála on the 14th day of March 2019 except as may otherwise be required in order to comply with the following conditions

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (i) Nine dwellings only shall be provided in the rear terrace in accordance with revised site layout plan received by An Bord Pleanála on the 14th day of March 2019.
 - (ii) Proposed sliding gate to access road shall be omitted.
 - (iii) Proposed reverse hardwood louvres to boundary walls shall be omitted and shall be replaced with a screen planting scheme.

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

Reason: In the interest of visual and residential amenity.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, and any statutory provisions replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the houses.

Reason: In the interests of the amenities of the area.

4. Prior to the commencement of development details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and in the interest of visual amenity.

5. Proposals for an estate / street name, house numbering scheme and associated signage shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers shall be provided in accordance with the agreed scheme.

No advertisements / marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interests of urban legibility.

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

Reason: In the interest of public health and to ensure a proper standard of development.

7. Entrances from the public road and the internal road network serving the development shall be in accordance with the detailed requirements of the planning authority for such works.

Reason: In the interest of amenities and public safety.

8. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard ducting shall be provided to facilitate the provision of broadband infrastructure within the development.

Reason: In the interest of orderly development and the visual amenities of the area.

9. 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.

10. During the construction and demolition phases, the proposed development shall comply with British Standard 5228 - Noise Control on Construction and open sites Part 1.

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

11. Prior to the commencement of development, the developer shall submit and obtain the written agreement of the planning authority to a plan containing details for the management of waste within the development.

Reason: In the interest of the residential and visual amenities of the area.

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall be prepared in accordance with "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

13. 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. The plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction and demolition waste.

Reason: In the interest of public safety and residential amenity.

14. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the

Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for an been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or ant other prospective party to the agreement to the Board 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 for the area.

- 15 Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or other security to secure the provision and satisfactory completion of roads, footpaths, water mains. Drains, open space and other services required in connection with the development coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting the 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. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the scheme at the time of payment. Details of the application of the terms of the

scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

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

- 17 The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of public open space. The amount of the contribution shall be agreed between the planning authority and the developer, or in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with the changes in the Wholesale Price Index – Building and Construction (Capital Goods) published by the central statistics office.

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

Bríd Maxwell

Planning Inspector

14th June 2019