



An  
Bord  
Pleanála

# S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

## Inspector's Report ABP-304196-19

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<b>Strategic Housing Development</b>	132 apartments that would be built to rent
<b>Location</b>	Clarehall. Dublin 17
<b>Planning Authority</b>	Dublin City Council
<b>Applicant</b>	E to Infinity ICAV
<b>Prescribed Bodies</b>	Irish Water National Transport Authority Irish Aviation Authority Dublin Airport Authority Transport Infrastructure Ireland
<b>Observers</b>	Cllr Michael O'Brien Fran Kenny

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**Date of Site Inspection**

13<sup>th</sup> July 2019

**Inspector**

Stephen J. O'Sullivan

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## 1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

## 2.0 Site Location and Description

- 2.1. The site is at Clare Hall c8km north-east of Dublin city centre off the Malahide Road, which is a main thoroughfare and a dual carriageway at this location. The site has a stated area of 0.38ha and is currently a surface car park that provides an overflow facility for a large shopping centre just to the north of the site. Access to the site from the Malahide Road is along a road and roundabout serving that shopping centre which have not been taken in charge by the council. The adjoining land to the south and south west of the site is occupied by a scheme of apartment buildings between four and six stories high known as Clare Village. A three storey apartment building stands on the adjoining land to the south east. The land between the site and the Malahide Road to the west is occupied by single storey buildings and hard standings providing motor services. In the surrounding area there is extensive low density 20<sup>th</sup> century housing to the south and west of the site, while more recent urban development has occurred to the north at Clongriffin, including commercial development on the Malahide and Northern Cross Roads.

## 3.0 Proposed Strategic Housing Development

- 3.1. The proposed development would provide 132 apartments that would be built to let. They would be in a single building up to 9 storeys and 29.25m high. The gross floor area of the development is stated to be 13,826m<sup>2</sup>. The proposed housing mix would be as follows-

	Studio	1 bed	2 bed	Total
Apartments	66	54	12	132

The gross floor area of the residential accommodation would be 13,826m<sup>2</sup> . The development would include 1,025m<sup>2</sup> of accommodation for shared facilities including a gym with an outdoor terrace on the eighth floor, as well as a concierge and communal room on the ground floor and laundry and storage facilities on the ground to sixth floors. A basement would include 79 car, 200 bicycle and 3 motorcycle parking spaces. 76 more bike spaces would be provided at surface level.

#### 4.0 **Planning History**

- 4.1. Reg. Ref. 3301/16 – On 1<sup>st</sup> September 2016 the council refused permission for a 10-storey building on the site with 217 apartments. The reason for refusal was –

*It is considered that the proposed development which will contravene the Development Plan's height strategy for outer city locations would by way of its excessive extent, height, bulk and design in very close proximity to existing site boundaries would constitute significant overdevelopment of the subject site, would be visually dominant and overbearing on adjoining properties, would reduce access to daylight and sunlight and overlook adjacent properties, and would thereby seriously injure the residential and visual amenities of properties in the vicinity and depreciate their value and by itself and by the precedent it would set, would be contrary to the proper planning and sustainable development of the area.*

#### 5.0 **Section 5 Pre Application Consultation**

- 5.1. A pre-application consultation with the applicants and the planning authority regarding a development of 123 apartments in an 8 storey building took place at the offices of An Bord Pleanála on the in respect of a proposed development on the site. The main topics raised for discussion at the tripartite meeting were:

1. Building Height - *Urban Development and Building Heights Guidelines for Planning Authorities*
2. Public realm improvements
3. Residential Amenity
4. Car parking and Transport
5. Specific Planning Policy Requirements – covenant/legal agreement

6. Any other matters.

Copies of the record of the meeting and the inspector's report are on this file.

5.2. The board issued an opinion on which stated that the submitted documents constituted a reasonable basis for an application for strategic housing development.

5.3. The opinion also stated that the following specific information should be submitted with any application for permission –

1. A visual impact assessment with photomontages
2. Detailed public realm proposals showing how pedestrian and cycle movement would be prioritised in line with DMURS.
3. An appropriate legal agreement and covenant to give effect to the build-to-rent status of the proposed apartments.
4. An analysis of daylight and sunlight
5. A construction and demolition waste management plan.
6. A report on pedestrian permeability
7. A mobility management strategy
8. A housing quality assessment

**5.4. Applicant's Response**

5.4.1. The proposed development is one storey higher and would contain 9 more apartments than that shown on the drawings submitted for the consultation.

5.4.2. A visual impact assessment with photomontages is submitted which concludes that the proposed development would make an appropriate and positive contribution to the emerging urban landscape with good architecture and open space that would consolidate the area. The height avoids dominating or overbearing and is in keeping with the 2018 guidelines. Regard has been had to the height of the neighbouring apartment buildings.

5.4.3. The pavement outside the site is not in the applicant's ownership. The scheme has been designed to provide activity and surveillance of the public realm and to enhance it with landscaping. The area in front of the building behind the footpath will be incorporated into the public realm with no barrier separating them. The other boundaries of the site will be marked by planting and a fence. There is no right of

way to adjoining land across those boundaries and it is no possible to provide a link to the Clare Village apartment scheme.

- 5.4.4. A draft covenant that the apartments are offered for rent by a single owner for at least 15 years is submitted. 1,025m<sup>2</sup> of floorspace will be provided to house communal facilities.
- 5.4.5. The submitted assessment of daylight and sunlight indicates that skylight access for the majority of windows in neighbouring properties would conform with BRE guidelines. A daylight analysis for the other windows indicates that the resultant fall in daylight levels would not result in levels that are below the minimum levels set out in the BS 8206-2: 2008. There is only a singular instance where the BRE guidelines would not be met and the magnitude of departure is small. The loss of sunlight to neighbouring recreational areas is not significant. Good levels of daylight and sunlight would also be available to residents of the proposed development with almost all living rooms having acceptable levels. The layout of the proposed development seeks to achieves a strong streetscape along the north-west of the site which provides a rationale for departures from daylight standards under section 6.7 of the 2018 guidelines on apartment design. The communal outdoor areas comply with BRE guidelines.
- 5.4.6. A construction and demolition waste management plan is submitted.
- 5.4.7. Appendix 1 of the submitted Landscape Design and Access Statement replies to item 6. The applicant does not have the legal interest in land to provide pedestrian or cycle links through the site or cycle facilities on the roads serving it which are not in the charge of the council. Pedestrian and cycle access to the scheme is provided 3 places.
- 5.4.8. 79 car parking spaces are proposed, a rate of 0.6 per apartment, which is consistent with the reduced provision required under SPPR 8 for build-to-rent apartments and the location of the site beside a quality bus corridor and a key district centre. 276 bicycle parking spaces would be provided at ground and basement level.
- 5.4.9. A housing quality assessment is submitted which shows compliance with the standards in the 2018 guidelines on apartment design.
- 5.4.10. The statement of response from the applicant also refers to matters raised by the planning authority during the pre-application consultation. It justifies the north-facing

single aspect units by reference to the need to provide frontage along the street at the north-east of the site while 60% of the proposed units would be have dual aspect. The separation distances of 16.8m to 21m from the windows at Clare Village is appropriate for an urban context, in line with sections 2.23 and 6.10 of the 2018 guidelines on apartment design. Access to the basement for bicycles shall be via lift. The site is not suitable for the provision of public open space, but it would provide 300m<sup>2</sup> of improved public realm which would amount to 7.9% of the site area so a financial contribution in lieu of public open space is not warranted.

## **6.0 Relevant Planning Policy**

### **6.1. National Policy**

- 6.1.1. The government published the National Planning Framework in February 2018. Objective 3b is to deliver at least 50% of new houses in cities. A minimum target population of 1,408,000 is set for Dublin. Objective 11 is to favour development that can encourage more people to live or work in existing settlements. Objective 27 is to prioritise walking and cycling accessibility to existing and proposed development. Objective 33 is to prioritise the provision of new homes that can support sustainable development. Objective 35 is to increase residential density in settlements.
- 6.1.2. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas were issued by the minister in May 2009. Section 1.9 recites general principles of sustainable development and residential design, including the need to prioritise walking, cycling and public transport over the use of cars, and to provide residents with quality of life in terms of amenity, safety and convenience. Section 5.5 states that net densities of at least 50dph should be achieved on public transport corridors which include those within 500m walk of a bus stop. A design manual accompanies the guidelines which lays out 12 principles for urban residential design.
- 6.1.3. The Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments were issued in March 2018. Section 2.4 states that accessible urban locations, which include those within 5 minutes' walk of a high frequency bus service, are generally suitable high density development comprised wholly or mainly of apartments. It contains several specific requirements with which compliance is mandatory. The minimum floor area for one-bedroom apartments is



45m<sup>2</sup>, for two-bedroom apartments it is 73m<sup>2</sup> and for three-bedrooms it is 90m<sup>2</sup>. In suburban locations a minimum of 50% of apartments should be dual aspect. The applicable standard in central or accessible locations is 33%. Ground level apartments should have floor to ceiling heights of 2.7m. Section 5 of the guidelines refers to Build-to-rent schemes. It states that their promotion by planning authorities is strongly merited. It states that dedicated amenities and facilities are characteristic of such developments including laundries, communal leisure areas, gyms, concierge services and workspaces. SPPR 7 states that detailed proposals for such facilities shall accompany applications for permission for BTR schemes. SPPR 8 states that restrictions on housing mix, the number of units per core and the requirement for most units to exceed the minimum floor area by 10% shall not apply, and that there should be minimal car parking and a flexible approach to the provision of storage and private amenity space.

- 6.1.4. The minister issued Guidelines for Planning Authorities on Urban Development and Building Heights in December 2018. SPPR1 reiterates government policy to support increased building height and density in locations with good public transport accessibility. Section 3.2 sets out development management criteria relating to height at various scales, including that the area is well served by public transport and that proposals make a positive contribution to urban design, as well as having regard to the need to maximise access to natural daylight, ventilation and views. The criteria state that appropriate and reasonable regard should be had to the BRE guidance on sunlight and daylight, but where a proposal may not be able to fully meet all their requirements this must be identified and a rationale for alternative compensatory design solutions must be set out in respect of which the board must apply its discretion with reference to objectives that might include effective urban design and streetscape solutions. SPPR3 states that where compliance with those criteria have been demonstrated the permission may be granted even where specific objectives of the development or local area plan indicate otherwise.
- 6.1.5. The minister issued Guidelines for Planning Authorities on Childcare Facilities in June 2001. Section 3.3.1 of the guidelines recommends that new housing areas be provided with childcare facilities at a standard of one facility with 20 spaces for every 75 homes.

## 6.2. Local Policy

Under the **Dublin City Development Plan 2016-2022** the site is zoned under objective Z1 – to protect, provide and improve residential amenities. The site is located within Strategic Development and Regeneration Area (SDRA) 1. A Key District Centre (KDC) is designated at the junction of the Malahide and Grange Roads beside the site. Section 16.7.2 states proposals for high buildings should be in accordance with the provisions of the relevant LAP/SDZ/SDRA in addition to the assessment criteria for high buildings and development plan standards, which in the outer city limit heights to 16m. Section 16.10.3 sets a standard that 10% of the site area of residential schemes should be provided as open space. 16.3.3 states that, in the event that the site is considered by the Planning Authority to be too small or inappropriate (because of site shape or general layout) to fulfil a useful purpose in this regard, then a financial contribution towards provision of a new park in the area, improvements to an existing park and/or enhancement of amenities shall be required (having regard to the City's Parks Strategy). Section 16.5 sets an indicative plot ratio standard of 0.5-2.0 for the Z1 zone. Section 16.10.2 of the plan refers to houses and states that at the rear of dwellings there should be adequate separation between opposing first floor windows. Traditionally, a separation of about 22m was sought between the rear of 2-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 and privacy of adjacent occupiers

- 6.2.1. The period of the **Clongriffin-Belmayne Local Area Plan 2012-2018** was extended 2022. The site is located in the south western portion of the LAP and has no specific objectives attributed to it. Objective UD07 of the LAP refers to buildings between four and six storeys high.

## 6.3. Statement of Consistency

- 6.3.1. The proposed residential development is at a suitably high density and is in an urban area served by a public transport corridor (the Malahide Road QBC) and the Key District Centre identified at Clare Hall. As such it would be in keeping with the objectives of the National Planning Framework, in particular nos. 3a), 11 and 35.
- 6.3.2. With regard to the 2018 guidelines on apartment design, the site is within 500m of the quality bus corridor on the Malahide Road and so is an accessible location as

defined in section 2.4 of those guidelines. These locations are stated to be suitable for higher density developments that may be wholly comprised of apartments. The proposed development would comply with SPPR 7 of the guidelines that refers to build-to-rent (BTR) developments because ancillary residential support facilities and amenities are proposed with a total floor area of 1,025m<sup>2</sup> including a lobby and concierge, communal areas, laundry and storage facilities, and a gym. There would also be communal open space of 1,160m<sup>2</sup> around the building which would be equivalent to 7.1m<sup>2</sup> per bedspace, as well as private balconies for the apartments. All apartments would meet the minimum sizes required by the guidelines and most would exceed them. The studios would be between 37m<sup>2</sup> and 46m<sup>2</sup>, the one-beds would be between 45m<sup>2</sup> and 57m<sup>2</sup> and the two-beds would be between 73m<sup>2</sup> and 81m<sup>2</sup>, all with balconies of at least 4m<sup>2</sup>, 5m<sup>2</sup> and 7m<sup>2</sup> respectively. The parking provision of 0.6 per apartment would meet the requirement for reduced carparking under SPPR 8(iii). 80 or 61% of the apartments would be dual aspect, well above the minimum of 33% required for accessible locations in the guidelines.

- 6.3.3. With regard to the 2018 guidelines on building height, the statement of consistency refers to that submitted on the material contravention of the development plan.
- 6.3.4. The density of the development is appropriate under the 2009 sustainable urban residential guidelines having regard to its location on a public transport corridor in a key district centre. The design meets the 12 criteria set out in the manual that accompanied those guidelines.
- 6.3.5. It is not proposed to provide a creche on the site due to the preponderance of studios and one-bedroom units.
- 6.3.6. The proposed development is in keeping with the residential zoning of the site under objective Z1 of the development plan. The proposed site coverage of 31% is consistent with the range of 45-60% for this zone, while the proposed plot ratio of 0.5 is within the recommended range of 0.5-2.0. The departure from the standard of 22m for opposing windows is justified by the need to provide adequate streetscape to the north-west of the site and the minimum of 16.8m that is achieved will provided residential amenity. The provision of 10% public open space on the site would not achieve a reasonable standard of urban design, although 7.9% of the site would be given over to an improved public realm

6.3.7. The proposed development would provide a mix of uses and streetscape in line with the principles set out for SDRA1 of the development plan and the applicable located area plan. It has also been designed to minimise overshadowing. It would exceed the guidance on height in the LAP, and in this regard reference is made to the accompanying statement of material contravention.

#### 6.4. **Statement of Material Contravention.**

6.4.1. The proposed height of 29.8m over nine storeys would materially contravene the general limit of 16m that applies under the development to this location and the guideline of 4-6 storeys in the LAP. The proposed 9 storey building is within 500m of a high frequency bus service and is beside a key district centre where there is significant existing employment and the potential for more. Its height would be in keeping with the provisions of the National Planning Framework, in particular objectives 13 and 35, that seek increased densities and advise against general height restrictions in existing urban centres and along public transport corridors. It is also in keeping with the advice in the 2018 guidelines on apartment design about sites close to high frequency bus services being suitable for high density apartment development.

6.4.2. The proposed development is in keeping with the 2018 guidelines on building height. SPPR1 of those guidelines supports increased building height in locations with good public transport accessibility. The applicant can demonstrate compliance with the criteria for higher buildings set out under SPPR3 of the guidelines which allow a planning authority to approve development even where a development or local area plan indicates otherwise, namely –

- The site is 5 minutes' walk from a high capacity public transport service along the Malahide Road
- The height is appropriate for the context of the site. The site is currently underutilised. The development would provide an appropriate urban edge.
- The proposed development would be a high quality architectural development with an appropriate urban edge. It would improve the quality of the street and the public realm.

- The range in heights from 4 to 9 storeys takes account of the surrounding context of development including the existing residential properties in the area with reduced height along the southern and eastern boundaries.
- The proposed development would provide a street edge on the north west elevation and seeks to provide a flanking perimeter block with a separation distance to the adjacent apartment block with a public space and inviting entrance in front of it.
- The development would improve the public realm and pedestrian environment of the area.
- The submitted daylight/sunlight assessment and the development has been carefully designed to maximise access to natural daylight, ventilation and views to minimise overshadowing and loss of light.

6.4.3. The proposed development is in excess of the minimum density required under the 2009 guidelines on sustainable urban residential development, which advise that minimum net densities of 50dph should be achieved along public transport corridors.

6.4.4. The board should therefore grant permission under sections 37(2)(b)(ii) and (iii) of the planning act.

## 7.0 Third Party Submissions

7.1. Fifteen submissions on the application have been received. They are from residents of the neighbouring apartments at Clare Village or persons representing them. They object to the proposed development on grounds that can be summarised as follows-

- It would represent over-development of the site. It would be too high and too dense. The reasons for the refusal of application 3301/16 by the council have not been overcome.
- The proposed building is too high and would injure the character of the area. It would materially contravene the provisions of the development plan in this regard. It would be of a poor architectural standard, and would be visually incongruous and overbearing. It would be at undue risk of fire. It would have a significant negative impact on the outlook and natural light available to the neighbouring apartments in Clare Village and would fail to meet BRE

guidance on the subject . It would not achieve adequate separation distance from the neighbouring apartments which is frequently less than 22m. It would therefore seriously injure their residential amenities.

- The quantum of the proposed development is excessive. The provision of open space is inadequate and would not meet the standards of the development plan. The proposed development would provide a poor living environment for its occupants. It would breach plot ratio standards set down in the development plan. It could lead to anti-social behaviour that would threaten the amenities of neighbouring homes, which already lack proper open space.
- The height, density, housing mix and restricted parking of the proposed development are not justified by its location. It is not served by high quality public transport. The DART stations are beyond comfortable walking distance. The capacity of the bus services along the Malahide Road is restricted. Buses are often full by the time they reach the nearby stops at rush hour. In particular the material contravention of the development plan's provisions regarding height is not justified by the criteria set out in the 2018 guidelines on the topic. The outer suburban location is not suitable for the transient population that would arise due to the proposed rental tenure of the proposed apartments and the high proportion of studio units. It would not properly integrate with the established community.
- The proposed development would exacerbate traffic congestion during occupation and construction. The private roads serving the site and Clare Hall are frequently congested as it is and cannot cope with the additional traffic that the proposed development would generate, particularly the heavy traffic that would be required during construction. The proposed excavation would threaten the structural integrity of the neighbouring apartment blocks. The proposed parking is inadequate and would lead to haphazard and obstructive parking on surrounding roads, particularly in cumulation with the loss of the existing overflow parking on the site.

## 8.0 Planning Authority Submission

- 8.1. The submission includes a record of the meeting of the elected members in the relevant area committee. It indicates that they were in favour of housing on the site but there was concern about the height, density and type of development proposed and that there was not enough gain for the community. The number of parking spaces is considered deficient. The proportion of studio units is too high. The development plan provisions on height should be considered by the board. The scheme would represent overdevelopment of the site and would lead to a more transient population. The quality and type of accommodation would not meet local needs.
- 8.2. The Chief Executive's report stated that the proposed uses were in keeping with the Z1 zoning of the site in the development plan. The proposed development is complementary to the objectives in the development plan and the LAP for the Key District Centre although it is just outside the designated boundaries of that centre. It recommends that a permission be attached to any grant of permission requiring measures to address daylight deficiencies to provide suitable compensatory design solutions. The proposed development does not maintain a separation distance of 22m from windows serving adjacent apartments. To protect the privacy of apartments in Killaloe House the proposed units directly overlooking them should be omitted. The report referring to 18 numbered units. A financial contribution should be required in lieu of the shortfall of open space. Children's play areas should be located in sunlit areas. The proposed density of 346 dph may be excessive for this location. The planning authority would have concerns regarding the height of the proposed structure having regard to its residential use and setback from the Malahide Road. An apartment block on the site would be consistent with the development plan and the LA, but the council have concerns with the height and density of the proposed development and its proximity to neighbouring homes. Having regard to the 2018 guidelines on building height and apartment design it is considered that overlooking of neighbouring residences can be overcome by condition. The development would not otherwise injure the amenities of the area or of adjacent properties and is considered acceptable. It was recommended that a grant of permission be considered subject to 21 conditions. Condition no. 7 would modify the proposed development by omitting 16 of the proposed apartments and

changing the windows on another 8 apartments and the balconies at the north-western corner of the site.

- 8.3. The submission included copies of reports from various sections of the council. The Housing Section stated that it had make the applicant aware of obligations under Part V. The report from the Transportation Section raised concerns about the accessibility of the bicycle storage in the basement. Car parking spaces should be served by ducting for EV charging points. It stated that there was no objection to the proposed development subject to condition. The Drainage Division stated that it had no objection to the proposed development. The report from the Parks and Landscape Section stated that only 7.9% of the site was provided as public open space and a financial contribution would be required to address the shortfall from the standard of 10% of site area.

## 9.0 Prescribed Bodies

- 9.1. Irish Water stated that it can facilitate the proposed connections to its network.
- 9.2. The National Transport Authority stated supports the principle of consolidation of the built environment along the existing high capacity public transport corridor on the Malahide Road, but emphasis should be placed on residential amenity. The roundabout at the site does not facilitate movement by pedestrians and cyclists.
- 9.3. The Irish Aviation Authority stated that the developer should be required to notify the authority 30 days prior to the erection of any crane.
- 9.4. The Dublin Airport Authority stated that it had no comment.
- 9.5. Transport Infrastructure Ireland stated that it had no observations to make.

## 10.0 Screening

### 10.1. Appropriate Assessment

- 10.1.1. The proposed development would not be in or adjacent to any Natura 2000 site. It would not have the potential, therefore, to have any direct effects on any such site. The application site is part of the built up area of the city and is paved. So the proposed development would not increase the flow of storm water into the municipal sewer. The proposed attenuation measures would reduce variations in the runoff



from the site. There is no potential, therefore, for the proposed development to alter the volume or characteristics of the flows into or from the surface water sewerage system that could conceivably have a significant effect on any Natura 2000 site. The foul effluent from the proposed development would drain to the wastewater treatment system for Dublin. The scale of the proposed development relative to the rest of the area served by that system means that the impact on the flows from that system would be negligible and would not have the potential to have any significant effect on any Natura 2000 site. As the proposed development does not have the potential to have an effect on any Natura 2000 site, there is no potential for it to have likely significant effects on any site in combination with any other plan or project.

10.1.2. Therefore, having regard to the scale and nature of the proposed residential development of 132 apartments and its location within the built up area of the city on land that served by municipal sewers and that has already been subject to works and laid out as a surface car park, no Appropriate Assessment issues arise the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 10.2. **Environmental Impact Assessment**

10.2.1. The current proposal is an urban development project that would be in the built-up area of a town but not in a business district. It is therefore within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations, and an environmental impact assessment would be mandatory if it exceeded the threshold of 500 dwelling units or 10 hectares. The number of proposed dwellings is 132 and the site area is 0.38 hectares. The proposed development is therefore well below the applicable thresholds. It would be located within the built up area of the city on land that has been previously subject to works. A preliminary examination of the nature, size and location of the proposed development has therefore concluded that there is no real likelihood of significant effects on the environment , having regard to direct, indirect and cumulative effects, and an EIA is not necessary .

## 11.0 Assessment

11.1. The planning issues arising from the proposed development can be addressed under the following headings-

- Policy
- Design and height
- Residential amenity for occupants
- Residential amenity of neighbours
- Access and parking
- Water supply and drainage

### 11.2. Policy

11.2.1. Residential development of the site would be in keeping with its zoning under the city development plan. It would not contravene the landuse objectives of the SDRA 1 designation in the plan or those in the applicable local area plan.

11.2.2. The current proposal is for a substantial apartment block on a small site bounded by roads and previous development on all sides. Its density is therefore remarkably high, at 347 dph. The submissions from the public question whether this area is suitable for development of this type and intensity, describing it as a peripheral suburban site remote from high capacity public transport links and centres of employment. There is merit to this position. The plot ratio of the proposed development, at 3.6, would be higher than the range of 0.5-2.0 recommended in the development plan, although the plan states that this range is indicative only. The site is distant from the city centre. It is not within easy walking distance of railway stations and public transport to it depends on buses. Much of the surrounding area was developed as an outer suburb at the periphery of the city in the 1990s. Nevertheless the current circumstances of the site would support a conclusion that it was relatively accessible to an extent that would justify the scale of the proposed development. The site is within comfortable walking distance from bus stops on the Malahide Road that have frequent services to the city centre. The roundabout in front of the site, although grossly oversized and inappropriate by current standards, does not obstruct access to the bus stops. The bus services would be further augmented if the proposals for this corridor under the BusConnects project are

implemented, whereby the Malahide Road corridor would extent to the railway station at Clongriffin and so would facilitate multi-mode trips from the proposed apartments. The public transport available to residents of the proposed development is therefore be as good as that available anywhere that is not served by a railway. There is a mix of uses within walking distance of the site at the shopping centre at Clarehall and along the Malahide and Northern Cross Roads that provides a range of commercial services and places of employment. Further mixed use on the land near the site is planned under the SDRA 1 and KDC designations under the development plan. In the context of the wider city region as it now functions, therefore, the site should be regarded as being in an accessible urban location. Because the site is within 500m walk of a bus stop with frequent services it meets the definition for accessible locations in section 2.4 of the 2018 guidelines on apartment design, which are stated to be suitable for higher density apartment developments, and the definition of public transport corridors the 2009 sustainable urban residential guidelines where higher densities of at least 50dph are advised. The proposed development would be in keeping with the policies set out in both sets of guidelines. It would not represent over-development of the site.

11.2.3. Section 5 of the 2018 guidelines on apartment design sets out policy on Build-to-rent schemes. It does not set out policies on the location of this type of scheme, so the general guidance on the location of apartment development generally in section 2.4 equally applies to the current proposals. Submissions from the public expressed concern that the area was not suitable for this type of development due to the transient nature of the population it might attract. This type of tenure would be different from that prevailing in the area, although there are adjoining lands with development potential that could also be developed this way. It would introduce a significant new element into the prevailing housing mix of the area. However national policy supports this type of development. In this case it would occur in the context of a largely established residential area to the east, south and west of the site where traditional low density housing from the latter 20<sup>th</sup> century predominates. The proposed built to rent apartments would therefore widen the housing mix in the area in a manner that was more likely to reflect the housing needs of the entire community. The development would provide a useful range of shared facilities for the residents of the apartments in accordance with SPPR 7 of the guidelines. The

draft covenant required under that policy has also been submitted. The proposed development would therefore be in keeping with national policy on the build-to-rent format.

11.2.4. The submissions from the council and the public refer to a previous refusal of permission by the council for development on the site. The scale of the previous proposal was greater than that currently proposed, and the decision was made prior to the issuing of the current guidelines on apartment design and building height in 2018. In any event the board's consideration of planning applications is not constrained by previous decisions of the planning authority.

11.2.5. The proposed development is therefore in keeping with the relevant local and national planning policies and as such is acceptable in principle.

### 11.3. **Design and height**

11.3.1. The layout of streets around the site is fixed. The current condition of the site as open land beside a secondary junction undermines the legibility of the urban environment and lends it a rather bleak aspect. The proposed building would address that junction and would provide stronger frontages to the roads to the north-west and north-east of the site. It would improve the public realm with an additional paved space in front of the building behind the footpath facing the junction. The detailed design, finishes and materials of the proposed building are to an acceptably high standard, as are the hard and soft landscaping plans.

11.3.2. At 29m, the proposed 9 storey building would be higher than those in its vicinity, in particular the 3 storey block to the south-east. However its height would be comparable to that of the adjacent shopping centre and the 6 storey apartment blocks to the south and south-west. The additional proposed height would not be entirely out of scale with that which prevails in the vicinity. It would be justified in principle by the policy in favour of increased building height stated in SPPR1 of the 2018 guidelines on the subject. The particular impact of the height on adjoining properties would be mitigated by stepping down the proposed building where it is nearer to them. Thus, in the vicinity of the neighbouring 3 storey building, the north-eastern part of the proposed building would be stepped down to 4 storeys while its southern part would be 5 storeys. The western part of the proposed building would be stepped down to 5 storeys beside the neighbouring 6 storey building. The

proposed height would meet the development management criteria for higher buildings set out in section 3.2 of the guidelines, and would therefore comply with SPPR3. The terms of the 2018 guidelines on building height would justify a grant of permission for the proposed development despite its height exceeding the limit of 16m set down in section 16.7.2 of the development plan in accordance with section 37(2)(b)(iii) of the planning act.

11.3.3. The height and design of the proposed development would therefore improve the appearance of the area and make a positive contribution to its character, and as such are acceptable.

#### **11.4. Residential amenity for occupants**

11.4.1. SPPR 8 of the 2018 guidelines on apartment design relax some, but not all, of the standards that are applied elsewhere in the guidelines. The requirements regarding housing mix, units per core and extra floorspace above the minimum are disapplied, while parking provision should be minimal and there is flexibility around communal or individual storage space. The proposed apartments would meet the minimum floor areas and private amenity space required under SPPR3 and appendix 1 of the guidelines. As stated above, the site is considered to be in an accessible location where there is a particular need to provide street frontage, so the requirement under SPPR 4 is that 33% of apartments would have dual aspect. The proposed development would exceed this requirement. The floor to ceiling heights of the units are all above the minimum of 2.7m required under SPPR5. Useful communal facilities would be provided in the form of an upper level gym with a terrace, shared storage on each floor and laundry, concierge and shared space at ground floor level. The requirement of SPPR 7 (b) would be met. The open space around the building would provide for some outdoor recreation. The submitted daylight and sunlight analysis indicates that adequate light would be available to the proposed apartments and open spaces. The standard of amenity that the proposed development would provide its residents is therefore acceptable.

11.4.2. The site is too small for any useful public open space to be provided upon it. The application of the standard of 10% of site area in section 16.10.1 would not result in the provision of any significant amenity for the public and would prejudice the proper development on the site in accordance with its zoning objective. Section 16.3.3 of

the development states that in such cases a financial contribution towards a new park will be required, and the submission from the council recommended that a special contribution of €4,000 per apartment be required (recommended condition no. 16). However the council did not specify what exceptional costs that contribution would relate to, nor did it indicate how the infrastructure on which the costs would be expended would benefit the development proposed in this case. The requirements for a special contribution under section 48(2)(c) of the planning act have not been met, therefore.

## **11.5. Residential amenity of neighbours**

11.5.1. The windows of the existing apartments to the south-east and south-west of the site have the benefit of an outlook over a site without buildings. The site is zoned for residential use and it would not be in keeping with this zoning or the proper planning and sustainable development of the area to maintain its current state as a surface car park. A change in the outlook from the neighbouring apartments is therefore a necessary consequence of the implementation of the zoning objectives in the development plan. The issue then arises as to whether the actual impact of the specific development proposed in this case would have such a serious negative impact on the neighbouring properties as to justify refusing permission or requiring substantial alterations to the proposed development. It is not considered that such an impact would arise from the proposed development. The situation and layout of the building on the site provides open space or the ramp to the basement car park along the boundaries of the site with the adjoining apartment schemes, allowing the proposed apartment building to be set back further from the shared boundary than most of the existing apartments. In particular, triangular areas of open space would be provided opposite most of the existing apartments to the south-west and south-east. The proposed development would not, therefore, deprive the occupants of the neighbouring apartments of a reasonable outlook.

11.5.2. The windows on the gable elevation at the western end of the site would be 16.8m from opposing windows in the existing apartments opposite. This is less than the separation distance of 22m which section 16.10.2 of the development mentions in the context of traditional two-storey housing. However, as submitted by the applicant, the proposed development would make a positive contribution to the streetscape at the north-west of the site. The separation distance between opposing

windows at this location would not be unusual in an urban context with apartment blocks. The tradition of houses having a 22m separation distance that is mentioned at section 16.10.2 of the development is not applicable in this case. The separation distances and orientation of the other windows and balconies in the proposed development relative to those in the neighbouring blocks are also reasonable for an urban context, and it is not considered that the alterations sought under condition 7 of the council's submission are necessary. The proposed development would not overlook neighbouring properties in a manner that unduly interfered with their privacy.

11.5.3. The proposed development would have a significant effect on the natural light available to some of the adjoining apartments, as set out at page 13 of the daylight and sunlight analysis submitted with the application. In 13 instances the impact would reduce the vertical sky component to below the target in the BRE documents. In the worst case it would reduce the component to 14.2% from 32.5% . It is clear, therefore, that the proposed development will affect some of the neighbouring apartments. Whether this justifies refusing permission is a matter for the board to determine. My advice is that it would not. As stated above, the proposed development would provide a substantial amount of residential accommodation at an accessible location at a density and height that is in keeping with national policy. It would provide a good standard of residential amenity for its occupants and would make a positive contribution to the character of the area. The submitted design achieves a reasonable setback from existing apartments, with much of the proximity between the existing and proposed units arising from the lesser separation that was achieved from the site boundaries when the existing blocks were constructed. The proposed apartments are generally north of the existing ones, and so would have a lesser impact in terms of overshadowing. So while the proposed development would not meet all the requirements set out in the BRE guidance, it is considered that its impact in this regard should be balanced with the criteria set out at section 3.2 of the 2018 guidelines on building height. These are the wider planning objective to provide housing at accessible locations at a sustainable density and the local planning objective to improve the streetscape and character of the district centre at Clare Hall, as well to the local circumstance whereby apartments were previously constructed close to the boundary with a surface car park that was zoned for

residential development. The impact of the proposed development on natural light available to adjoining properties would not preclude consideration of a grant of permission, therefore.

11.5.4. The site is self-contained and the works to provide the foundation and basement of the proposed apartment building should not affect the integrity of buildings on neighbouring sites, provided those works are carried out in a competent manner in line with standard construction practices. A construction management plan setting out the implementation of the required practices should be made the subject of a condition on any permission granted.

11.5.5. Having regard to the foregoing, it is concluded that the proposed development would not seriously injure the amenities of property in the vicinity of the site.

#### **11.6. Access and parking**

11.6.1. As outlined above, the justification for the scale and form of the proposed development depend on its location being regarded as accessible by public transport and other sustainable modes. The accommodation of additional population in the area should therefore have the effect of reducing the demand on the road network in the city compared to the alternative of keeping the site as a surface car park and displacing population to less accessible locations. The prevention of development on this site would not be likely to have any noticeable impact on the periodic congestion along the Malahide Road. The proposed apartments would generate traffic movements at different times of the day than the shopping centre. The amount of parking that would be provided to serve them is restricted to 0.6 spaces per unit in line with the advice in the 2018 guidelines on apartment design that car parking for build to rent units be significantly reduced. Given these circumstances, the impact of the proposed development on the private roads between the Malahide Road and the site would be significant and would not justify refusing permission or substantially altering the proposed development.

11.6.2. The stated level of 276 bicycle parking spaces is acceptable, as is the location of the 76 visitor spaces at surface level. It is not clear whether the space allocated in the basement would be capable of accommodating the stated 200 spaces there. The proposed access to the basement cycle spaces via standard internal lifts and a through series of doors is novel. It is highly unlikely to work. Revised proposals for



access by ramp to the basement and for the storage facilities are therefore required, as stated in the report from the council's Transportation Department. The matter can be addressed by condition. The provision of convenient facilities for cyclists is more than usually important in this case because that mode of transport would render the major employment centres at the Airport and Beaumont Hospital much more accessible from the proposed development than they would be by public transport.

11.6.3. The site has direct access to the road network without having to cross or pass other residences in the vicinity. If construction is carried out in a competent manner in line with standard practices then the traffic which it generates should not give rise to hazards or undue obstruction for other road users. A construction management plan setting out the implementation of the required practices should be made the subject of a condition on any permission granted.

#### **11.7. Water supply and drainage**

11.7.1. The site is paved and currently drains to the municipal storm water sewer. The proposed development would not alter this arrangement, but attenuation measures would be put in place to reduce variations in outflows. The proposed development would be connected to Irish Water's networks for water supply and foul drainage. Irish Water has reported that they can facilitate these connections. The proposed development would therefore be acceptable in relation to water supply and drainage.

### **12.0 Recommendation**

12.1. I recommend that permission be granted subject to the conditions set out below.

### **13.0 Reasons and Considerations**

Having regard to the location of the site within the built up area of Dublin in proximity to a range of services and facilities including the bus corridor along the Malahide Road; to the provisions of the Dublin City Development Plan 2016-2022, including the zoning of the site for residential use under objective Z1 and the designation of a Key District Centre at Clare Hall; to the established and emerging pattern development in the area; to the objectives of the National Planning Framework in particular objectives 3b, 11, 27, 33 and 35; and to the provisions of the Guidelines

for Planning Authorities on Urban Development and Building Heights issued by the minister in December 2018, the Sustainable Urban Housing: Design Standards for New Apartments issued by the minister in March 2018 and the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by minister in May 2009; it is considered that, subject to compliance with the conditions set out below, the proposed development would make a positive contribution to the urban character of the area, would not seriously injure the residential amenities of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

The height the proposed building exceeds the limit of 16m for this area set down by section 16.7.2 of the city development plan and that the proposed development would materially contravene this provision of the plan. Nevertheless a grant of permission is warranted in accordance with section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, having regard to the provisions in favour of higher buildings set out in the Guidelines for Planning Authorities on Urban Development and Building Heights issued by the minister under section 28 of the act in December 2018 and the compliance of the proposed development with SPPR 3 of those guidelines.

## 14.0 Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

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

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

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

3. Prior to the commencement of development the developer shall submit the following details for the written agreement of the planning authority –
  - A Mobility Management Strategy which shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Access to bicycle storage shall be provided for all residents of the permitted apartments. The authorised car parking shall be used only by residents of the authorised apartments or by those providing services to them.
  - Details of the bicycle storage facilities and the access thereto. The details shall which shall provide for a minimum of 76 visitor spaces at surface level and 200 spaces at basement level in formats that can securely and conveniently accommodate a suitably wide range of bicycle types. The storage may occupy spaces shown for car parking on the submitted plans. Access shall be provided to the bicycle storage in the basement via the ramp from the street. Revised details of the ramp, including drawings showing its gradient, layout, marking and any gates or barriers, shall be submitted to the planning authority which shall provide for safe access for cyclists to the basement and a continuation of the public footpath with pedestrian priority across its entrance from the street.

- Proposals to facilitate the charging of electric vehicles in the car park.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

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

**Reason:** In the interest of the visual amenities of the area.

5. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area, and to allow the Planning Authority to assess the impact of any such development through the planning process.

6. Proposals for a name and numbering scheme for the development and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs numbers shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. 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 interest of urban legibility.

7. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

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

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

9. 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 the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

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

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

11. Site development and building works shall be carried out only between 0800 to 1900 hours 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.

12. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste. The plan shall also identify measures to protect the structural integrity of buildings on adjoining sites.

**Reason:** In the interests of public safety and residential amenity.

13. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

**Reason:** In the interests of public safety and residential amenity.

14. Prior to commencement of development on site, the developer shall submit, for the written agreement of the planning authority, details of the Management Company, established to manage the operation of the development together with a detailed and comprehensive Build-to-Rent Management Plan which demonstrates clearly how the proposed Build-to-Rent scheme will operate.

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

15. Prior to the commencement of development, the owner shall submit to and agreed in writing with the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be let or sold separately for that period.

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

16. Prior to expiration of the 15-year period referred to in the covenant, the owner shall be submitted to and agreed in writing with the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

**Reason:** In the interests of orderly development and clarity.

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

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

18. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation relating to the proposed development,
  - (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

19. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or,



in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Stephen J. O'Sullivan  
Planning Inspector

13<sup>th</sup> July 2019