



An
Bord
Pleanála

Inspector's Report ABP-304325-19

Development

Demolish the existing building and construct a part 4 storey, part 5 storey and part 6 storey block with 45 No. apartments, consisting of 22 No. 2 bed, 11 No. 1 bed and 12 No. 3 bed with balconies, terraces and roof gardens, 2 No. retail units, a basement with 30 No. car park spaces, 41 No. surface car park spaces with landscaped areas, bin store and ancillary site works.

Location

The former C & D Home and Hardware Store, Trinity Street, Wexford, Co. Wexford.

Planning Authority

Wexford County Council

Planning Authority Reg. Ref.

20190209

Applicant(s)

HPC Sales Limited

Type of Application

Permission

Planning Authority Decision

Grant subject to conditions

Type of Appeal	Third Party v. Decision
Appellant(s)	Martha Cashman & Reitlin Murphy
Observer(s)	None.
Date of Site Inspection	10 th October, 2019
Inspector	Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in Wexford town centre where it occupies a prominent position along the western side of Trinity Street (the R730 Regional Road) in a mixed-use area characterised by a variety of commercial / retail uses, including the 'Talbot Hotel', local convenience shopping, a plant hire operation, a motor sales showroom and a service station, in addition to a considerable residential component encompassing traditional two / three-storey terraced housing (e.g. Parnell Street to the south / southeast) and more recently developed apartment schemes such as the six-storey 'Seascape Apartments' to the northeast. It is situated approximately 1.0km southeast of Wexford Train Station and alongside local bus service routes with a bus stop located to the immediate southeast to the front of an adjacent property.
- 1.2. The site itself has a stated site area of 0.3712 hectares, is irregularly shaped with a frontage of approximately 52m onto Trinity Street, and is presently occupied by a single storey building, which previously traded as a home & hardware supply store, positioned alongside the southern site boundary with the remainder of the property having seemingly been used for external storage, car parking, and associated circulation areas. To the immediate southeast, the site adjoins a narrow laneway and the rear of the two-storey terraced housing along the northern side of Parnell Street in addition to a local 'Centra' store at the junction of Parnell Street / Trinity Street. The north-western site boundary adjoins a car park serving the Talbot Hotel and an attached three-bay, two-storey dwelling house of mid-nineteenth century construction ('Dubross House'). To the southwest, the site adjoins the grounds of the former military barracks as well as the rear garden area of a property on Parnell Street whilst the north-eastern site boundary fronts onto Trinity Street.

2.0 Proposed Development

- 2.1. The proposed development consists of the demolition of the former 'C & D Home and Hardware Store' (floor area: 1,227.9m²) with the subsequent construction of a partial four / five / six storey-over-basement apartment building (floor area: 5,871.9m²) comprising 11 No. one-bedroom, 22 No. two-bedroom bed, and 12 No. three-bedroom units (a total of 45 No. apartments) with 2 No. retail units at ground

floor level fronting onto Trinity Street. The scheme also provides for basement level car parking (30 No. spaces), surface level car parking (41 No. spaces), private and communal amenity areas, bin storage, and ancillary site works. Access to the site will be obtained via a new entrance arrangement onto Trinity Street. Water and sewerage services are available via connection to the public mains.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 5th April, 2019 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 16 No. conditions. These conditions are generally of a standardised format and relate to issues including construction management, surface water drainage, bin storage, the provision of electric vehicle charging points, Part V, and development contributions, however, the following conditions are of note:

Condition No. 2 – Refers to the implementation of the mitigation and monitoring measures outlined in the plans and particulars submitted with the Natura Impact Statement and the Environmental Management Plan.

Condition No. 9 – Requires the existing stone wall along the northern, western and southern site boundaries to be retained and restored, where necessary. In addition, details of how these walls are to be protected during the excavation and construction works are to be agreed in writing with the Planning Authority prior to the commencement of development.

Condition No. 11 – Requires the obscure glazed screening to the balcony areas serving Apartment Nos. 11, 22 & 33 to be 1.8m in height.

Condition No. 13 – Refers to the protection of items of archaeological interest that may be present on site and includes a requirement for pre-development testing.

3.2. **Planning Authority Reports**

3.2.1. *Planning Reports:*

Details the site context, planning history, and the applicable policy considerations before stating that the overall principle of the proposed development is acceptable. It is further considered that the contemporary design and form of the scheme is appropriate to the redevelopment of this brownfield site given its town centre location. The proposal is also judged to be comparable to other quayside developments of recent years whilst the building height is reflective of existing apartment development on the other side of Trinity Street. Concerns with regard to the potential for overlooking of those dwelling houses on Parnell Street are to be mitigated by way of condition (through the installation of 1.8m high privacy screens to the balcony areas serving Apartment Nos. 11, 22 & 33). The report further states that issues pertaining to the environmental threat posed by the levels of contamination on site can be satisfactorily addressed by way of adherence to the mitigation measures set out in the Natura Impact Statement and the Environmental Management Plan. Accordingly, the report recommends that permission be granted, subject to conditions.

3.2.2. *Other Technical Reports:*

Chief Fire Officer: Advises of fire safety requirements.

Environment: Recommends that a waste management plan and an environmental management plan listing specific measures to treat and dispose of the contaminants highlighted in the environmental assessment provided with the application (during both the construction and operational phases of the development) be submitted by way of a request for further information.

3.3. **Prescribed Bodies**

- 3.3.1. *Department of Culture, Heritage and the Gaeltacht:* Recommends that the mitigation measures outlined in the Natura Impact Statement as supplemented by the Environmental Management Plan be included as a condition of any decision to grant permission.

3.4. Third Party Observations

3.4.1. A total of 29 No. (identical) submissions were received from interested third parties and the principle grounds of objection / areas of concern contained therein can be summarised as follows:

- Health and safety concerns with regard to the presence of pollutants / contaminated material on site and the means for the excavation, treatment & disposal of same.
- Concerns with regard to the risk of structural damage (including by way of vibrational impacts) to neighbouring properties and underlying culverts etc. as a result of the proposed development given the prevailing ground conditions and historical incidences of subsidence etc. to houses during the installation of a surface water culvert in Parnell Street / Trinity Street in the 1970s.
- Flood risk implications / the surrounding area is subject to flooding and the basement level car park may also be liable to flood events.
- Traffic safety concerns, including increased congestion, the adequacy of the disabled parking arrangements, and the likelihood of overflow parking in surrounding residential streets.
- The inadequacy of the on-site car parking arrangements.
- The need for suitable on-site turning facilities etc. for emergency services & refuse collection vehicles etc.
- Detrimental impact on residential amenity by reason of overlooking (from balconies, terraces, and roof gardens), overshadowing, intrusive lighting, anti-social behaviour, increased noise, loss of security, general disturbance, air pollution, and construction activities.
- Inconsistencies between the description of the proposed development as detailed on the site notice and the proposal as shown on the submitted plans and particulars.
- Loss of access to the rear of those properties along Parnell Street.
- Concerns with regard to the adequacy of the proposed bin storage provision / waste receptacles.

- The public open space will not be accessible to all and it is unclear who will be responsible for its maintenance.
- The historic boundary wall known as ‘The Old Gas Yard Wall’ should be maintained and restored.
- The potential impact on walls and buildings within the adjacent Military Barracks, which includes a number of protected structures.
- Archaeological considerations, including the proximity of the Military Barracks and Recorded Monument Ref. No. WX037-032001.
- Concerns as regards the potential impact of the proposed development on structures listed in the National Inventory of Architectural Heritage (e.g. Dubross House, Castle House, and several properties along Parnell Street).
- The overall scale and density of the proposal is out of character with the surrounding pattern of development and the wider streetscape.
- The reasons for the refusal of PA Ref. No. 20181012 continue to apply.

4.0 Planning History

4.1. *On Site:*

PA Ref. No. 20181012. Was refused on 14th September, 2018 refusing HPC Sales Ltd. permission to demolish existing building and construct a part 4 storey, part 5 storey and part 6 storey block with 45 No. apartments consisting of 22 No. 2 bed, 11 No. 1 bed and 12 No. 3 bed with balconies, terraced and roof gardens, 2 No. retail units, a basement with 30 No. car park spaces, 41 No. surface car park spaces with landscaped areas, bin store and ancillary site works.

- There remains uncertainty on the impacts of the proposed development from groundwater dewatering and shallow perched groundwater impacting on the qualifying interests of the Slaney River Valley SAC and Wexford Harbour and Slobs SPA, Natura 2000 sites, and therefore a Natura Impact Statement and Stage 2 Appropriate Assessment would be required. It is considered that the potential for significant effects is uncertain. Therefore, having regard to the precautionary principle and on the basis of a preliminary assessment and

objective criteria the current proposed development, along or in combination with other projects, could have uncertain effects on the habitats and species for which the Natura 2000 sites have been designated.

- Having regard to the risks that remain on this site a detailed environmental management plan with detailed mitigation measures to assess and address these environmental risks to soil and perched groundwater, human health risks or risk to future building integrity would require further samples, assessment and consideration. The proposed development is therefore considered prejudicial to public health and contrary to the proper planning and development of the area.

5.0 Policy and Context

5.1. National and Regional Policy

- 5.1.1. The *'Urban Development and Building Height, Guidelines for Planning Authorities, 2018'* are intended to set out national planning policy guidance on building heights in relation to urban areas, as defined by the census, building from the strategic policy framework set out in Project Ireland 2040 and the National Planning Framework. They aim to put into practice key National Policy Objectives contained in the NPF in order to move away from unsustainable "business as usual" development patterns and towards a more compact and sustainable model of urban development. Greatly increased levels of residential development in urban centres and significant increases in the building heights and overall density of development are not only to be facilitated, but are to be actively sought out and brought forward by the planning processes and particularly so at local authority and An Bord Pleanála levels. In this regard, within city and town centre areas it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights by the application of certain objectives and criteria, for example, on suitably configured sites, where there are particular concentrations of enabling infrastructure to cater for such development, e.g. very significant public transport capacity and connectivity, and the architectural, urban design and public realm outcomes would be of very high quality. There is therefore a presumption in favour of buildings of

increased height in the town/city cores and in other urban locations with good public transport accessibility.

- 5.1.2. The '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018*' (which update the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2015*') provide detailed guidance and policy requirements in respect of the design of new apartment developments. Where specific planning policy requirements are stated in the document, these are to take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes. Furthermore, these Guidelines apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease. They also apply to housing developments that include apartments that are built specifically for rental purposes, whether as 'build to rent' or as 'shared accommodation'. Unless stated otherwise, they apply to both private and public schemes. These updated guidelines aim to uphold proper standards for apartment design to meet the accommodation needs of a variety of household types. They also seek to ensure that, through the application of a nationally consistent approach, new apartment developments will be affordable to construct and that supply will be forthcoming to meet the housing needs of citizens.
- 5.1.3. The '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' generally encourage more sustainable urban development through the avoidance of excessive suburbanisation and through the promotion of higher densities in appropriate locations. In general, appropriate locations for such increased densities include city and town centres, 'brownfield' sites (within city or town centres), sites within public transport corridors (with particular reference to those identified in the Transport 21 programme), inner suburban / infill sites, institutional lands and outer suburban / 'greenfield' sites. The proposed development site may be categorised as a 'town centre' location which offers the greatest potential for the creation of sustainable patterns of development. Increasing populations in these locations can assist in regeneration, make more intensive use of existing infrastructure, support local services and employment, encourage affordable housing provision and sustain alternative modes of travel such as walking, cycling and public transport. In order to maximise inner city and town centre population growth, there is,

in principle, no upper limit on the number of dwellings that may be provided within any town or city centre site, subject to the following safeguards:

- compliance with the policies and standards of public and private open space adopted by development plans;
- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
- good internal space standards of development;
- conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
- compliance with plot ratio and site coverage standards adopted in development plans.

5.1.4. The '*Architectural Heritage Protection, Guidelines for Planning Authorities, 2004*' provide detailed guidance in respect of the provisions and operation of Part IV of the Planning and Development Act, 2000, as amended, regarding architectural heritage, including protected structures and Architectural Conservation Areas. They detail the principles of conservation and advise on issues to be considered when assessing applications for development which may affect architectural conservation areas and protected structures.

5.2. **Development Plan**

5.2.1. ***Wexford County Development Plan, 2013-2019:***

Chapter 3: Core Strategy:

Section 3.4: Settlement Strategy:

Section 3.4.5: Role of Hub:

SS11: To encourage new residential development to occur in the Hub in accordance with the Core Strategy and Settlement Strategy subject to normal planning and environmental criteria including the availability of

adequate wastewater treatment capacity and drinking water capacity and the development management standards contained in Chapter 18.

Chapter 4: Housing:

Section 4.2: Sustainable Housing:

Section 4.2.4: Residential Density:

HP08: To ensure the density of residential developments is appropriate to the location of the proposed development to ensure that land is efficiently used. In deciding on the appropriate density for a particular location the Council will have regard to the existing grain and density of the settlement, the proximity of the site to the town or village centre or public transport nodes, the availability of existing services, the Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual-A Best Practice Guide (DEHLG, 2009) and subject to normal planning and environmental criteria and the development management standards contained in Chapter 18.

Chapter 6: Employment, Economy and Enterprise:

Section 6.4.11: Retail Development:

ED31: To ensure that all retail development permitted is in accordance with the Guidelines for Planning Authorities Retail Planning (DECLG, 2012) and the Wexford County Retail Strategy.

ED39: To prioritise the reuse of vacant and derelict buildings in the town centre for uses including retail development.

Chapter 14: Heritage:

Section 14.2: Natural Heritage

Section 14.5: Archaeological Heritage

Section 14.6: Built Heritage:

Section 14.6.1: Protected Structures

Chapter 17: Design:

Chapter 18: Development Management Standards

Section 18.10: *Residential Development in Towns and Villages*

Section 18.11: *Apartments:*

The Council will consider apartment developments, particularly in the towns and larger village centres, which:

- Are of a high quality design and make a positive contribution to the street scene without being unduly incongruous.
- Would not give rise to adverse impacts on the amenities of adjoining properties.
- Are designed and sited to retain and protect buildings of historic or architectural interest, the setting of those structures and designated sites of nature conservation. Development designs shall have regard to the findings and recommendations of archaeological investigations;
- Can be provided with adequate car parking and amenity space provision.

Section 18.17: *Retail*

Section 18.24: *Archaeology*

Section 18.25: *Architectural Heritage*

5.2.2. *Wexford Town & Environs Development Plan, 2009-2015:*

Pursuant to the provisions of Part 8 of the Electoral, Local Government and Planning and Development Act, 2013, the lifetime of the Wexford Town and Environs Development Plan, 2009-2015 has been extended and, therefore, the Plan will continue to have effect until 2019, or such time as a new County Development Plan is made. It should be read together with the Wexford County Development Plan, 2013-2019.

Land Use Zoning:

The proposed development site is located in an area zoned as ‘*Town Centre*’ with the stated land use zoning objective ‘*To protect and enhance the special physical and social character of the existing Town Centre and to provide for new and improved Town Centre facilities and uses*’.

In accordance with the Zoning Matrix Table included with Map No. 21: *'Master Plan Zones'* it can be confirmed that *'residential'* and *'retail'* development is *'Permitted in Principle'* within this land use zoning.

Explanatory Note:

The purpose of this zone is to protect and enhance the special character of Wexford Town Centre and to provide for and improve retailing, commercial, office, cultural and other uses appropriate to the Town Centre which complement its historic setting. It will be the objective of the Council to encourage the full use of buildings and backlands especially the full use of upper floors, preferably for residential purposes, Certain uses are best located away from the principal shopping streets because of their extensive character and their need for large-scale building forms and space requirements.

Map 13B – Main Areas: No. 13: Trinity Street:

A number of sites exist that offer development and redevelopment opportunities. Existing lanes such as Sinnott Lane, Slaughterhouse Lane could see redevelopment of 3-4 storeys to create and enhance pedestrian routes from South Main Street to Trinity Wharf.

Redevelopment opportunities could include the Talbot Hotel car park, Wexford Building Supplies, Trinity Hire and redevelopers of garages and warehouses to town centre retailing. The Council will consider the development potential of lands which are currently located within the SAC / SPA, but which may be suitable for future development subject to agreement with the Dept. of Environment, the National Parks & Wildlife Service and the Dept. of the Marine.

If sites become available new buildings of 5-6 storeys could be developed along this road. Whilst this may not happen in the lifetime of the Plan there is a long term objective to expand the town centre retail core from South Main Street to the Trinity Wharf site.

Other Relevant Sections / Policies:

Chapter 3: Development Strategy:

Section 3.4: Masterplan Zones

The proposed development site is located within *'Zone 13B: Town Centre'*.

Chapter 4: Economic Development:

Section 4.3: Key Opportunity Sites: 'Trinity Wharf'

Section 4.6: Retail Strategy

Chapter 5: Housing Strategy

Chapter 8: Conservation & Heritage

Section 8.4: Archaeological Heritage

Section 8.5: Architectural Heritage

Section 8.6: Natural Heritage

Chapter 10: Design Guidance:

Chapter 11: Development Management Standards

Section 11.05: Architectural Conservation – Protected Structures

Section 11.06: Archaeology

Section 11.07: Sustainable Urban Design Guidelines

Section 11.08: Residential Development

Section 11.08.13: Apartments

Section 11.10: Retail Development

5.3. Natural Heritage Designations

5.3.1. The following Natura 2000 sites are located in the general vicinity of the proposed development site:

- The Slaney River Valley Special Area of Conservation (Site Code: 000781), approximately 80m northeast of the site.
- The Wexford Harbour and Slobs Special Protection Area (Site Code: 004076), approximately 400m northeast of the site.

5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited

ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, 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.

6.0 The Appeal

6.1. Grounds of Appeal

- The overall design, scale, height and massing of the proposed development is out of keeping with the surrounding pattern of development, will dominate the streetscape, and will seriously injure the amenities of the existing two-storey, Victorian, terraced housing along the northern side of Parnell Street in addition to 'Dubross House', Trinity Street (which is listed in the National Inventory of Architectural Heritage, Ref. No. 15505103).
- In addition to the increased height of the proposed development relative to the existing building on site, it is considered that the main aspect of the proposed construction has been 'shoe-horned' into the available site frontage with no gap or buffer of open space provided between it and the neighbouring development to the south.
- Contrary to the findings of the Visual Impact Assessment, it is not accepted that the visual impact of the proposed development on Dubross House will be 'slight' as *'the proposed building does not overwhelm Dubross House and there remains a buffer of open space between them'*.
- The VIA has failed to address the profound visual impact on neighbouring development to the immediate south i.e. the 'Centra' store and the terraced housing along the northern side of Parnell Street.
- In the absence of any buffer between the southern gable of the main block of the proposed development, the 'Centra' store, and the rear boundary wall to Nos. 48, 50 & 52 Parnell Street, it is unclear how the new building can be constructed.

- The proposed development would be highly obtrusive and would constitute a visually discordant feature that would materially affect the character of the surrounding area. The design fails to integrate with the receiving environment, would be seriously injurious to the amenities of the area, and is contrary to Landscape Objective L04 of the Development Plan which requires all development to be appropriate to its setting so as to ensure that adverse visual impacts are minimised.
- The proposal will result in the overlooking of the rear garden areas of dwelling houses along Parnell Street in addition to that of Dubross House, Trinity Street. In particular, the residents of those houses along the northern side of Parnell Street are concerned that the proposed '*roof garden communal amenity space*' at fourth floor level, which is sited towards the southern end of the main block of the development, will give rise to anti-social behaviour including noise pollution and items being thrown into their rear gardens.
- The communal roof garden located on top of the smaller block of apartments towards the rear of the scheme, in addition to those terraces located at fifth floor level of the main block, will overlook the rear gardens of neighbouring housing.
- The proposed development will have a seriously detrimental impact on the residential amenity of surrounding properties by reason of overlooking, loss of privacy, and noise pollution.
- There are concerns as regards the risk of structural damage to neighbouring properties given the prevailing ground conditions and previous incidences of subsidence etc. to those houses along Parnell Street. In this regard, the Board is advised that during the installation of a surface water culvert in Parnell Street / Trinity Street in the 1970s, severe cracks appeared in a number of those houses along the northern side of Parnell Street which required the re-housing of residents for up to seven months while structural repairs were carried out (please refer to the accompanying photographs contained in Appendix 'A').
- The Environmental Assessment submitted with the application refers to the presence of overburden / 'made' ground. The construction of an underground

car park will involve excavations to a depth comparable to that required during the installation of a surface water culvert along Parnell Street in the 1970s.

- The proposed development will exacerbate traffic congestion in the area thereby endangering public safety, with particular reference to the junction of Trinity Street / King Street which is already in excess of its operating capacity.
- The site in question was formerly occupied by the Wexford Gas Company and the underlying soil / subsoil is known to be contaminated. Therefore, there is a risk that hazardous substances will be released into the environment (with particular reference to the Slaney River Valley Special Area of Conservation & the Wexford Harbour and Slobbs Special Protection Area) during the construction stage and after periods of heavy rainfall.
- Monitoring results contained in the Environmental Report that accompanied PA Ref. No. 20181012 demonstrate that contaminant levels within the subsoil layers on site are above the applicable standards for residential development. The subject application also shows that elevated levels of arsenic, ammonia, lead, beryllium, aromatic hydrocarbons, naphthalene, benzo(a)pyrene, benzo(a)fluoranthene, 1, 2 – 4 trimethylbenzene, asbestos and sulphates, are present within the subsoils on site.
- The Environmental Assessment provided with the application states that *'Groundwater contaminant concentrations at MW103 also exceed human health GACs. Human health remediation is considered necessary as a result'*, however, it is unclear what remediation measures are proposed in this regard.
- The levels of contamination within the subsoils across the site render it wholly unsuitable for residential development.
- There is a perched groundwater table at a shallow depth on site which is subject to a tidal influence. This groundwater may flow underneath existing housing in Parnell Street and Dubross House on Trinity Street.
- Whilst the Environmental Assessment refers to the removal of material from the site, no information has been provided with regard to the following:
 - The proportion of the material to be removed that is likely to be classified as hazardous waste and in need of suitable disposal.

- The specific location at which any excavated hazardous material will be disposed of and / or treated.
- Serious concerns arise as regards the excavation and disposal of contaminated material associated with the construction of the proposed development. For example, no information has been provided on the availability of a hazardous waste landfill facility in Ireland that could accommodate any such material whilst the EPA has previously stated that *‘There is no commercial hazardous waste landfill in the State and there are limited hazardous waste treatment operations’*.
- There are concerns that contaminants such as VOCs and asbestos fibres could be released into the air during the construction stage thereby posing a risk to public health.
- Inadequate details have been provided of the proposed boundary treatment, with particular reference to the western end of the site in the vicinity of car parking space nos. 12-23. Given that this is an area of open space, there are serious concerns that the security of the rear gardens of neighbouring properties would be compromised should the development proceed.
- In the event that the Board upholds the decision of the Planning Authority to grant permission, it is submitted that significant adverse effects of the proposed development need to be mitigated through the inclusion of the following conditions (at a minimum):
 - Prior to the commencement of development, the developer should be required to carry out structural surveys of housing along Parnell Street as well as Dubross House on Trinity Street. In addition, there should be continuous monitoring of those properties during the course of construction and up to one year after the completion of works.
 - The basement car park should be omitted from the development due to the risk of structural damage to neighbouring properties.
 - The four-storey block towards the southern end of the development should be omitted. This would allow for the creation of a buffer between the southern gable of the development and adjacent properties. The

removal of this block would also obviate the need for basement car parking under the footprint of same. These changes would require a re-design of the development.

- The 2 No. communal roof garden areas and the fifth-floor terraces within the main block should be omitted in order to preserve the privacy and residential amenity of neighbouring properties.
- During construction works, a suitably qualified specialist should undertake air pollution monitoring in order to ensure the protection of public health from the release of pollutants / contaminants such as asbestos fibres and VOCs.
- Groundwater should be monitored by a suitably qualified specialist during construction in order to ensure the protection of groundwater resources.
- All material excavated from the site should be tested and classified with detailed information provided to the Planning Authority as regards the volume of contaminated materials recorded and the location for the treatment / disposal of same.

6.2. Applicant Response

- All of the pertinent issues raised in the grounds of appeal were addressed by the Planning Authority in its assessment of the application.
- It has been accepted that the design of the proposed development accords with the relevant standards of the Development Plan as well as Government policy on housing, including the well-publicised shortage of supply.
- The applicant commissioned a number of reports from consultants to address relevant issues from a planning perspective with regard to the impact of the proposed development (including visual, noise, traffic and environmental impacts). This documentation was lodged with the application and has comprehensively addressed any potential concerns. Furthermore, the design of the apartment scheme was refined in response to any issues raised during the preparation of the aforementioned reports.

- Particular attention has been paid to the need to address the concerns of local residents along Parnell Street as regards the potential impact of the proposed development on the residential amenity of their properties (i.e. loss of privacy, overlooking & overshadowing). The 'T'-shaped layout of the proposal ensures substantial separation distances whilst the use of obscurely glazed screens on balconies will also limit any possible overlooking.
- Given the size of the rear garden areas of those properties along Parnell Street and the height of the intervening stone boundary walls, it is considered that any additional overshadowing etc. attributable to the proposed development will be negligible.
- With regard to the overall height of the development proposed, the Board is advised that there are clear precedents in the immediate vicinity for buildings of 5-6 No. storeys.
- The construction of buildings of the height proposed accords with the long-term policy objective of the Planning Authority to *'expand the town centre retail core from South Main Street to the Trinity Wharf site'*.

6.3. **Planning Authority Response**

6.3.1. No further comments.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised in the grounds of appeal are:

- The principle of the proposed development
- Overall design and layout / visual impact
- Impact on residential amenity
- Impact on archaeological & built heritage considerations
- Traffic considerations
- Environmental contamination / pollution
- Flooding implications
- Appropriate assessment

These are assessed as follows:

7.2. The Principle of the Proposed Development:

- 7.2.1. The proposed development site is located in an area zoned as ‘*Town Centre*’ with the stated land use zoning objective ‘*To protect and enhance the special physical and social character of the existing Town Centre and to provide for new and improved Town Centre facilities and uses*’ wherein ‘residential’ and ‘retail’ development is ‘*Permitted in Principle*’ pursuant to the Land Use Zoning Matrix Table included with Map No. 21: ‘*Master Plan Zones*’ of the Wexford Town & Environs Development Plan, 2009-2015. Moreover, the site in question forms part of a larger amalgamation of lands (Map 13B – Main Areas: No. 13: *Trinity Street*) that encompasses a number of properties, including the Talbot Hotel car park and ‘Trinity’ plant hire, which has been identified as affording the opportunity for redevelopment. In this regard, the Development Plan specifically states that new buildings of 5-6 storeys in height could be developed along Trinity Street and that there is a longer term objective to expand the retail core of the town centre from South Main Street to the Trinity Wharf lands approximately 200m southeast of the proposed development site (presently the subject of an application by Wexford County Council for a local authority foreshore development (ABP Ref. No. ABP-303726-19) that comprises a substantial mixed-use scheme, including a six-storey hotel, six-storey car park, five-storey residential building, office buildings, a cultural/performance centre, and a 64 No. berth floating marina).

- 7.2.2. Cognisance must be taken of the fact that the subject proposal represents the redevelopment of an under-utilised and dilapidated property which presently detracts from the surrounding area, particularly given its prominent positioning within the town centre along Trinity Street, and that a suitable mixed-use scheme would undoubtedly make a more positive contribution in land use planning terms to the vitality of the area and the rejuvenation of the wider site surrounds. Indeed, there are multiple policy provisions at both national and local level which promote the re-use / redevelopment of under-utilised serviced sites with Objective ED39 of both the County Development Plan and the Town Development Plan specifically referring to the reuse of vacant and derelict buildings in the town centre for uses including retail development. The proposed development site could further be considered to comprise a potential infill site situated within an established mixed-use area where public services are available, including public transport links i.e. the rail network and local bus services, where the development of appropriately designed and higher density infill schemes would typically be encouraged provided they integrate successfully with the existing pattern of development and adequate consideration is given to the need to protect the amenities of existing properties. For example, the *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* acknowledge the potential for infill development provided that a balance is struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.
- 7.2.3. Therefore, it is my opinion that the subject proposal, which provides for a high-density, mixed-use redevelopment of an underutilised town centre site with active ground floor uses (i.e. 2 No. retail units) and residential accommodation overhead in the form of apartment units, complies with the 'town centre' land use zoning and further accords with the broader vision and policy provisions of the Town Development Plan, the County Development Plan, and national guidance as regards the redevelopment of such areas.

7.3. Overall Design and Layout / Visual Impact:

7.3.1. *The Density of the Proposed Development:*

By way of context, I would advise the Board that Wexford Town is the largest town in the county and forms the centrepiece of the County's Settlement Strategy (as detailed in the Core Strategy of the County Development Plan) given its designation as a 'hub' in the previous National Spatial Strategy and in the current South-East Regional Planning Guidelines, 2010-2022. It has also been identified as a 'Key town' in the Draft Regional Spatial & Economic Strategy for the Southern Region wherein it forms part of the strategically important Wexford-Rosslare Europort Change Location.

The proposed development site is located in a mixed-use area within Wexford town centre where public services, including public transport links, and other local amenities are readily available. In this respect it is of relevance to note that Section 11.08.01: '*Residential Density*' of the Town Development Plan states that it will be the policy of the Planning Authority to promote 'Higher Density Residential' development in excess of 27 No. dwelling units per hectare within strategic locations such as the town centre (although densities in excess of this 'upper' limit may be considered on their merits). However, I would also draw the Board's attention to Objective HP08 of the County Development Plan and Section 11.08.01 of the Town & Environs Development Plan wherein it is stated that the Council will have regard to the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*' and the accompanying Design Manual when considering the appropriate density for residential schemes.

The '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' generally encourage more sustainable urban development through the avoidance of excessive suburbanisation and the promotion of higher densities in appropriate locations. In this regard, it is clear that the subject lands can be categorised as a 'town centre' location which offers the greatest potential for the creation of sustainable patterns of development and, therefore, there is, in principle, no upper limit on the number of dwellings that may be provided within any town or city centre site, subject to certain safeguards.

Consideration should also be given to the 'brownfield' nature of the site and the availability of public transport, including the Wexford Train Station approximately 1.0km away and the site location along local bus service routes with a bus stop to the immediate southeast. The '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018*' also state that central and accessible urban locations such as the subject site are generally suitable for higher density development that may wholly comprise apartments.

The proposed development provides for 45 No. apartments on a site area of 0.3712 hectares which equates to a density of 121 No. units per hectare and thus would accord with both the Town Development Plan and the recommendations of the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*'.

Therefore, having considered the available information, with particular reference to the site location within Wexford town centre and its proximity to other local amenities, including public transport services, given the site context, I am satisfied that the density of development proposed accords with the requirements of the Development Plan and national guidance, subject to appropriate design and adherence to relevant amenity standards.

7.3.2. *Building Height:*

In terms of the proposed building height, the subject proposal involves the construction of a partial four / five / six storey-over-basement building with an overall ridge height of 19.55m up to parapet level. The principle six-storey construction will extend across the site frontage onto Trinity Street, although it will step down to five-storeys towards its northern end alongside 'Dubross House' with a more pronounced drop in height to four-storeys where it adjoins Nos. 50-56 Parnell Street to the south. The remainder of the 'T'-shaped construction that extends towards the rear of the site behind the roadside building will be four storeys in height and will be set back from the perimeter site boundaries.

At the outset, the construction of a building of the height proposed would appear to be acceptable in principle at this location by reference to the '*Urban Development and Building Height, Guidelines for Planning Authorities, 2018*' which state that there is a presumption in favour of buildings of increased height in the town/city cores and

in other urban locations with good public transport accessibility. More specifically, the Guidelines also state that within city and town centre areas it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective.

Further support is lent to the proposal on that basis that the site forms part of a larger grouping of lands (*Map 13B – Main Areas: No. 13: Trinity Street*) which has been identified for redevelopment in the Development Plan wherein it is stated that new buildings of 5-6 storeys in height could be developed along Trinity Street (as part of a longer term objective to expand the retail core of the town centre from South Main Street to the Trinity Wharf lands which are presently the subject of an application by the local authority (ABP Ref. No. ABP-303726-19) for a substantial mixed-use scheme, including a six-storey hotel, six-storey car park, and a five-storey residential building).

In a local context, the predominant pattern of development in the immediate vicinity of the application site alongside Trinity Street (and between it and the harbour) comprises various retail / commercial uses of differing scales. From an urban design perspective, there is considerable variation in building typology and architectural design along Trinity Street with the result that the dominant characteristics of its streetscape change noticeably depending on the specifics of the vantage point and the direction of travel e.g. on travelling southwards away from the site the prevailing pattern of development becomes considerably more residential in character and is predominantly composed of traditional, two-storey, terraced housing. However, in terms of building height, the immediate site surrounds are dominated by the six-storey tall Talbot Hotel and the 'Seascape' apartments which serve to enclose the streetscape towards this end of Trinity Street whilst defining the approach to the town centre.

Whilst I am cognisant of the precedent set by the aforementioned six-storey construction and the future vision for the development of the area as detailed in the Development Plan, in my opinion, regard must also be had to current site context, with particular reference to the site location within the wider streetscape and its relationship with the neighbouring two-storey properties to the immediate north and south along Trinity Street.

Having reviewed the submitted plans and particulars, including the Landscape and Visual Impact Assessment, the accompanying photomontages, and the contextual elevational drawings, I would have some reservations that the overall height of the proposed development (which exceeds that of the Talbot Hotel) would appear somewhat visually discordant when taken in context and that it would be preferable to achieve a more graduated stepping of building heights along this section of the streetscape. In support of the foregoing, I would refer the Board to the scale and massing of the side elevations of the proposed construction which will be visible on the approaches to the site from along Trinity Street and the prominence / domineering appearance of same relative to the adjacent two-storey properties. In this regard, it is my opinion that it would be appropriate in this instance to reduce the overall scale, height and massing of the proposal through the omission of the uppermost (fifth) floor level in addition to those revisions suggested in Section 7.5.15 of this assessment (including the omission of Unit No. 37 from the fourth floor and the likely loss of Unit No. 38 which may be partly subsumed into Unit No. 39 to create a three-bedroom apartment located behind the stair core). These amendments would provide for a suitably proportioned five-storey structure of a contemporary design which would make a positive contribution to the streetscape and the rejuvenation of the wider area whilst respecting the more traditional and established built fabric.

7.3.3. *Compliance with the Design Standards for New Apartments:*

It is necessary to consider the detailed design of the proposed apartment units having regard to the requirements of both local planning policy and the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018*'. In this respect it is of particular relevance to note that where specific planning policy requirements are stated in the Guidelines, these are to take precedence over any conflicting policies or objectives contained in the development plan. Therefore, in accordance with Section 3.0 of the Guidelines I propose to assess the subject scheme as regards compliance with the relevant planning policy requirements set out in the Guidelines in relation to the following:

- Apartment mix within apartment schemes
- Apartment floor areas

- Dual aspect ratios
- Floor to ceiling height
- Apartments to stair / lift core ratios
- Storage spaces
- Amenity spaces
- Aggregate floor areas / dimensions for certain rooms

7.3.4. Apartment Mix within Apartment Schemes:

The proposed development provides for the construction of 11 No. one-bedroom, 22 No. two-bedroom bed, and 12 No. three-bedroom units and in this respect I am satisfied that the subject proposal achieves a suitable mix of unit sizes / types in accordance with Specific Planning Policy Requirement No. 1 of the Guidelines.

7.3.5. Apartment Floor Areas:

It is a specific planning policy requirement of the Guidelines that the minimum apartment floor areas previously specified in the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2007*' continue to apply as follows:

- 1-bedroom apartment (2 persons): 45m²
- 2-bedroom apartment (3 persons): 63m²
- 2-bedroom apartment (4 persons): 73m²
- 3-bedroom apartment (5 persons): 90m²

In this respect I would advise the Board that each of the proposed apartments has a stated floor area which satisfies the minimum requirements of the Guidelines.

Furthermore, in the interest of safeguarding higher standards of accommodation by ensuring that apartment schemes do not provide for units being built down to a minimum standard (in reference to Section 3.8 of the Guidelines which states that the majority of all apartments in any scheme of 10 or more apartments should exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types by a minimum of 10%), from a review of the submitted details, I am satisfied that the subject proposal accords with the applicable requirements.

7.3.6. *Dual Aspect Ratios:*

The amount of sunlight reaching an apartment significantly affects the amenity of its occupants and therefore it is a specific planning policy requirement of the Guidelines that in more central and accessible urban locations the minimum number of dual aspect apartments to be provided in any single apartment scheme will be 33% (where it is necessary to achieve a quality design in response to the subject site characteristics and to ensure good street frontage where appropriate).

Having reviewed the submitted details, it is my opinion that the proposed development accords with Specific Planning Policy Requirement 4 of the Guidelines i.e. in excess of 33% of the apartment units will be dual aspect.

7.3.7. *Floor to Ceiling Height:*

The Guidelines state that floor-to-ceiling height affects the internal amenities of apartments (in terms of sunlight / daylight, storage space, and ventilation) and that this is of most significance at ground level where the potential for overshadowing is greatest, although it is also noted that ground level floor to ceiling height will also influence the future adaptability of individual apartments for potential alternative uses, depending on location. Whilst it is acknowledged that the Building Regulations suggest a minimum floor to ceiling height of 2.4m, the Guidelines also state that from a planning and amenity perspective, applicants and their designers may consider the potential for increasing the minimum apartment floor-to-ceiling height to 2.7m where height restrictions would not otherwise necessitate a reduction in the number of floors.

From a review of the submitted drawings, it is apparent that the floor-to-ceiling height within each of the apartment units will exceed the minimum requirements set out in the Guidelines.

7.3.8. *Apartments to Stair / Lift Core Ratios:*

Given the scale of the development proposed, the subject proposal satisfies the requirements of the Guidelines in this regard.

7.3.9. *Storage Spaces:*

7.3.10. Internal Storage:

The Guidelines state that apartment developments should include adequate provision for general storage and utility requirements in order to accommodate household utility functions such as clothes washing and the storage of bulky personal or household items. In this regard I would refer the Board to the minimum requirements for storage areas set out in Appendix 1 of the Guidelines as follows:

- One-bedroom apartment: 3m²
- Two-bedroom (3 No. person) apartment: 5m²
- Two-bedroom (4 No. person) apartment: 6m²
- Three-bedroom (or more) apartment: 9m²

Notably, this storage provision is to be in addition to kitchen presses and bedroom furniture (although it may be partly provided within these rooms provided it is in addition to the minimum aggregate living/dining/kitchen or bedroom floor areas). The Guidelines also state that no individual storage room within an apartment should exceed 3.5m².

From a review of the available information, including the floor plans (as amended) and the schedule of floor areas provided with the application, I am satisfied that the subject proposal complies with the requirements of the Guidelines as regards the provision of internal storage.

7.3.11. Additional Storage:

Section 3.32 of the Guidelines states that apartment schemes should provide for the storage of bulky items outside of individual units (i.e. at ground or basement level) given that secure, ground floor storage space allocated to individual apartments and located close to the entrance to the apartment block or building is particularly useful as it may be used for equipment such as bicycles, children's outdoor toys or buggies. However, whilst planning authorities are to be encouraged to seek the provision of such space in addition to the minimum apartment storage requirements, this would not appear to be mandatory, particularly as storage requirements may be relaxed in part, on a case-by-case basis (and subject to overall design quality), for building

refurbishment schemes on sites of any size and for urban infill schemes on sites of up to 0.25ha.

Although the subject proposal does not include for any additional ground / basement level storage areas allocated for the specific use of individual apartments, provision has been made for a communal refuse / bin storage area and shared bicycle parking stands at ground level.

7.3.12. *Private Amenity Space:*

It is a policy requirement of the Guidelines that adequate private amenity space be provided in the form of gardens or patios / terraces for ground floor apartments and balconies at upper levels. In this respect I would advise the Board that a one-bedroom apartment is required to be provided with a minimum amenity area of 5m² whilst two-bedroom (3 No. persons) & two-bedroom (4 No. persons) apartments are to be provided with 6m² and 7m² of private amenity space respectively. Three-bedroom apartments require a minimum of 9m² of private amenity space.

Consideration must also be given to certain qualitative criteria including the privacy and security of the space in question in addition to the need to optimise solar orientation and to minimise the potential for overshadowing and overlooking.

From a review of the submitted plans and particulars, including the floor plans and the 'Housing Quality Assessment' provided with the application, it can be confirmed that the overall private open space provision for each of the apartment units exceeds the minimum requirements of the Guidelines.

7.3.13. *Communal Amenity Space:*

The Guidelines state that the provision and proper future maintenance of well-designed communal amenity space is critical in meeting the amenity needs of residents, with a particular emphasis being placed on the importance of accessible, secure and usable outdoor space for families with young children and for less mobile older people, and in this respect the minimum requirements set out in Appendix 1 of the guidance are as follows:

- One-bedroom apartment: 5m²
- Two-bedroom (3 No. person) apartment: 6m²
- Two-bedroom (4 No. person) apartment: 7m²

- Three-bedroom apartment: 9m²

Accordingly, the proposed development will necessitate the provision of 314m² of communal open space in order to satisfy the minimum requirements of the Guidelines. However, in accordance with Section 11.08.05: '*Public Open Space Area*' of the Development Plan (which specifies the provision of functional open space at a rate of 10% of the total site area), the proposed development would require the provision of 371m² of public open space.

The subject proposal includes for 2 No. communal roof-top garden / amenity areas (totalling 351m²) that will be accessible to all apartment residents in addition to a series of 'public' open spaces at surface level to the rear of the main construction (435m²) with the largest of these measuring approximately 320m².

On the basis of the foregoing, it is clear that the overall provision of communal open space to serve the proposed development exceeds the minimum requirements of both the Development Plan and the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018*'. Furthermore, I am satisfied that the overall quality of the space proposed will provide for a sufficiently high level of amenity for the users of same and is suitably overlooked and distributed throughout the site.

7.3.14. Aggregate Floor Areas / Dimensions for Certain Rooms:

Having reviewed the submitted drawings, I am satisfied that the overall design of the proposed apartment units accords with the required minimum floor areas and standards (including the dimensions of certain rooms) as appended to the Guidelines.

7.3.15. Overall Design of the Proposed Apartment Scheme:

On the basis of the foregoing, it is my opinion that the design of the submitted proposal generally accords with the minimum requirements of the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018*' and provides for a satisfactory level of residential amenity for the future occupants of the proposed apartment units.

7.4. **Impact on Residential Amenity:**

7.4.1. Given the site context, including its location within a built-up urban area, concerns have been raised that the proposed development may have a detrimental impact on the residential amenity of neighbouring properties. In this respect, I would suggest that particular consideration needs to be given to the overall design, orientation and positioning of the proposed development relative to those residences along Parnell Street to the immediate southeast.

7.4.2. *Overlooking:*

7.4.3. In assessing the potential for the proposed development to give rise to an unacceptable degree of overlooking of the appellants' properties with a consequential loss of privacy, in my opinion, cognisance must be taken in the first instance of the site context within a built-up urban area and in this regard I am inclined to suggest that some degree of overlooking would not be unexpected given the site location within Wexford town centre.

7.4.4. The principle six-storey over basement construction fronting onto Trinity Street will be aligned along a northwest-southeast axis with the result that those balcony areas to the rear of the building at first, second, third and fourth floor levels will not be orientated towards those neighbouring properties in Parnell Street thereby avoiding any direct overlooking of same, however, I would concur with the assessment of the Planning Authority that 1.8m high obscure screening should be installed along the south-eastern face of those balconies serving Unit Nos. 11, 22 & 33 in order to mitigate the potential for overlooking given the proximity of the adjacent housing although I would suggest that this should also be included for the balcony of Unit No. 42 on the fourth floor. With respect to the external terrace serving Unit No. 45 on the fifth floor, in addition to the increased separation distance between it and Parnell Street, the recessed positioning of this feature relative to the lower floors of accommodation will serve to obstruct any direct views from same towards the rear garden areas of Nos. 50 & 52 Parnell Street.

7.4.5. Further concerns arise as regards possible overlooking from the communal roof garden area proposed at fourth floor level within the main block of the development alongside Parnell Street, although it should be noted that those lands at the junction of Parnell Street / Trinity Street (which would seem to equate to Nos. 54 & 56 Parnell

Street) are occupied by an existing shop unit that would appear to have 100% site coverage over two floors and thus the effect of any impact on that property would be of less significance. With regard to preserving the residential amenity of Nos. 50 & 52 Parnell Street, I would suggest that the erection of additional screening over the parapet wall would serve to alleviate any overlooking concerns. The Board may also wish to consider the omission of this amenity space and its conversion to roof area (noting that the loss of same would not fundamentally undermine the open space provision for the wider scheme).

- 7.4.6. In relation to those balcony areas within the south-eastern elevation of the four-storey block to the rear of the development, in addition to the communal roof garden area over that element of the proposed construction, there will be a minimum separation distance of approximately 30-32m between those features and the principle rear elevation of the two-storey housing along Parnell Street which is, in my opinion, sufficient to preserve the amenity of those properties given the site context.
- 7.4.7. In reference to 'Dubross House' to the northwest, the absence of any fenestration within the north-western elevation of the six-storey over basement construction, in addition to the proposal to erect 1.8m high obscure glazing at the end of those balconies serving Unit Nos. 4, 15, 26 & 37, serves to mitigate the potential for overlooking. However, given the proximity of the fifth-floor terrace serving Unit No. 43 (in the event that this level of accommodation is permitted), it would be desirable to provide screening along the edge of same in order to further preserve the amenity of 'Dubross House'.
- 7.4.8. *Overshadowing:*
- 7.4.9. With respect to the potential for increased overshadowing / shading of neighbouring property, having regard to the site context and its location within a built-up urban area, the identification of the site as part of a larger landbank suitable for redevelopment (including the specific reference to the possible development of buildings of 5-6 storeys in height along Trinity Street), the siting and relationship of the proposed construction relative to the existing housing along Parnell Street and the adjacent lands to the northwest, I am inclined to conclude that while there may be some increase in overshadowing / loss of light attributable to the proposed

development, the significance of this impact is not of such magnitude as to warrant a refusal of permission.

7.4.10. Increased Noise Levels & General Disturbance:

7.4.11. With regard to the proposed balconies, terraces, and roof-top garden areas, it has been submitted in the grounds of appeal that the use of these areas, particularly any late-night usage, will result in increased noise levels and the disturbance of local residents. In this respect, whilst I would acknowledge the appellants' concerns, I am unconvinced that the use of these amenity areas would, in practice, differ to any significant extent from the typical usage of rear gardens and open spaces normally associated with more conventional housing developments. Furthermore, I would suggest that consideration must be given to the actual purpose of these areas in that they are intended to serve as amenity areas for the occupants of the proposed apartments and thus it seems unlikely that intrusive noise levels or anti-social behaviour within these areas would be tolerated by either the residents of the units themselves or by the management of the apartment scheme and thus it would be in the interests of those parties, with particular reference to the management company, to ensure that adequate protection against same is afforded to residents. I would also reiterate that cognisance must be taken of the site context within a built-up urban area in Wexford town centre alongside the heavily trafficked R730 Regional Road where increased levels of noise and disturbance would not necessarily be unexpected.

7.4.12. Notwithstanding the foregoing, in the event of a decision to grant permission, the Board may wish to consider the imposition of a condition prohibiting the use of the communal roof-top areas outside of certain hours in the interest of protecting the amenities of nearby residential property.

7.4.13. Overall Design, Scale, Height & Massing:

7.4.14. Further concerns have been raised in the grounds of appeal as regards the potential detrimental impact of the proposed development on the residential amenity of the adjacent housing along Parnell Street by reference to the overall scale, height and proximity of the new construction.

7.4.15. At the outset, I would reiterate that the existing shop unit at Nos. 54 & 56 Parnell Street would appear to have 100% site coverage and thus the impact of the proposal

on the amenity of that property is of limited significance, however, the proposed four-storey construction will extend to a height of 14m (up to parapet level) to the rear of the dwelling houses at Nos. 50 & 52 Parnell Street (the fourth and fifth storeys have been recessed back from Parnell Street in order to reduce the overall scale and massing of the construction relative to same). Whilst I would acknowledge that this aspect of the development will likely have a noticeably overbearing visual impact when viewed from within the aforementioned properties, it must be noted that this is a town centre location where a higher scale and density of development would normally be considered appropriate as evidenced by reference to the relevant provisions of the Development Plan, including the designation of the subject lands as part of an opportunity site suitable for the development of 5 / 6 storey buildings.

7.4.16. Therefore, having regard to the site location in Wexford town centre, the future vision for the development of the wider area (i.e. *Map 13B – Main Areas: No. 13: Trinity Street*), the surrounding pattern of development, the size and scale of the subject proposal, and the separation distances involved, on balance, I am inclined to conclude that the subject proposal will not give rise to such an overbearing appearance / influence as to warrant a refusal of permission.

7.4.17. *Potential for Damage to Property:*

7.4.18. With regard to concerns that the construction of the proposed development, with particular reference to the excavations required for the basement level car park, could impact on the structural integrity of neighbouring housing, it is my opinion that any damage to, or interference with, those properties attributable to the proposed development is essentially a civil matter for resolution between the parties concerned. In this respect I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property. It is not the function of the Board to adjudicate on property disputes or to act as an arbitrator in the assessment of damages and thus I do not propose to comment further on this matter.

7.5. Impact on Archaeological & Built Heritage Considerations:

7.5.1. *Archaeological Implications:*

- 7.5.2. From a review of the available information, including the '*Cultural Heritage Impact Assessment*' submitted with the application, it can be confirmed that the proposed development site is located within the zone of archaeological potential / notification associated with the historic town of Wexford (RMP No. WX037-032) whilst it is also proximate to RMP No. WX037-032001 (an Anglo-Norman masonry castle within the grounds of the military barracks although no features of the medieval castle are evident above ground) within those lands to the immediate northwest. It is further noted that the application site includes an apron of sloping vegetated ground which extends around the south-eastern corner of the high rubble wall that defines the barracks perimeter to a lower retaining wall of 19th Century construction. It is considered that this sloping area of natural ground has the potential for archaeological remains / items of interest.
- 7.5.3. The archaeological study also notes that a mid-17th Century account makes reference to the presence of '*many ruins of old churches*' at the foot of the former castle. It is understood that this church was reputedly a Norse Irish Church dedicated to the Holy Trinity although no trace of it remains whilst its precise location is unknown (it is thought to have been disassembled to repair Wexford Castle after the town was sacked in 1649).
- 7.5.4. Regrettably, the '*Cultural Heritage Impact Assessment*' does not include for any test trenching and thus its conclusions primarily derive from a desk-based analysis as supplemented by a visual inspection of the site, however, with regard to the potential for direct impacts on recorded archaeological monuments, it is acknowledged that the site is within the constraint for the historic town of Wexford, is proximate to the reputed location of an Anglo-Norman castle, and that the apron of sloping natural ground has the potential for archaeology. With respect to the potential for direct impacts on unknown archaeological monuments / items of interest, cognisance has been taken of the possible location of a former Norse Irish Church within the confines of the site boundary, although it has also been noted that site clearance works carried out in the 18th & 19th Century and the subsequent development of the Wexford Gas Works in 1865 (followed by the more contemporary current

construction on site) would likely have interfered significantly with the original site levels and possibly sterilised the ground. In terms of visual impact, it has been submitted that as there are no extant above ground features of the Anglo-Norman castle (RMP No. WX037-032001), the proposal will not detract from the setting of the local archaeological resource.

- 7.5.5. In order to mitigate against the potential archaeological impact of the proposed development, including the excavation works required for the basement level car park and site services etc., the applicant has recommended that archaeological monitoring be undertaken during groundworks with the Department of Culture, Heritage and the Gaeltacht and the National Museum of Ireland to be informed should it be established that archaeological material is present on site which would then make a decision as to how best to deal with the archaeological remains e.g. preservation by record or in situ.
- 7.5.6. Notably, in its decision to grant permission for the subject proposal, the Planning Authority has imposed a more onerous limitation on site works by requiring the completion of pre-development testing in advance of any preparatory or construction works on site in order to ascertain the presence of archaeological material. Furthermore, should items of archaeological interest be found to be present on site, it is stated that avoidance, preservation in situ, preservation by record, and / or monitoring may be required with the Department of Culture, Heritage and the Gaeltacht to advise on such matters.
- 7.5.7. Having considered the submitted details, it is apparent that whilst the site itself is within a zone of archaeological potential, the underlying ground conditions have likely been subjected to considerable disturbance over the years as a result of its previous use as part of the Wexford Gas Works and, more recently, due to the construction of the existing building on site. In this respect, I note that the investigative trial pits and borehole drilling undertaken on site (as detailed in the 'Environmental Assessment' submitted with the application) encountered 'made' ground containing various debris, including burnt coal, ceramics, glass, slate, textiles, wood, tar and marine shells, to a maximum depth of 2.58m below ground level with Trial Pit Nos. TP101, TP103 & TP105 having been excavated within the footprint of the proposed construction (ground disturbance will be to a lesser depth beyond the main building construction).

7.5.8. Accordingly, on balance, I am satisfied that any further archaeological appraisal of the site may be adequately addressed by way of condition as a means by which to ensure the preservation, recording and protection of any unrecorded archaeological materials or features which may exist within the site. This will necessitate the completion of an assessment by a suitably qualified archaeologist prior to commencement of development that will identify the nature and location of any archaeological material on the site and the impact of the proposed development on same. A report, containing the results of this assessment, should be submitted to the planning authority and, arising from this assessment, the developer should agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

7.5.9. Built Heritage Considerations:

7.5.10. The proposed development site is not subject to any statutory protection, however, it immediately borders the military barracks to the northwest which encompasses a number of protected structures (as detailed in the Record of Protected Structures appended to the Wexford Town & Environs Development Plan, 2009-2015) and is within the confines of an Architectural Conservation Area (No. 2). In this respect, the 'Cultural Heritage Impact Assessment' provided with the application states that whilst the site backs onto the perimeter wall of the barracks (noting that this would form part of the curtilage of the barracks and thus is afforded the same protection), it is not anticipated that there will be any direct impact on the fabric of the protected structures. It has also been submitted that the proposed development will not impact on views from the barracks given its high walls and elevated position relative to the site, although it is acknowledged that there will some loss of views towards the barracks from Trinity Street as a result of the new construction.

7.5.11. Given the site context, in my opinion, the subject site is distinct from the neighbouring Architectural Conservation Area and cannot be considered as contributing to the character of same. It is set at a lower elevation than the adjacent barracks and fronts onto a section of Trinity Street where the built form is dominated by a variety of contemporary and conventional construction of limited architectural interest. Furthermore, in light of the change in levels and the separation distance between the proposed development and the military barracks, and having reviewed

the accompanying photomontages, I am inclined to concur with the assessment by the Planning Authority that the proposal will not detract to any significant extent from the appreciation of the character or setting of the adjacent protected structures. At this point it is worth reiterating that the application site occupies a prominent town centre location which has been expressly identified as an opportunity site suitable for redevelopment that may encompass a 5-6 storey construction and, therefore, it would seem reasonable to surmise that any potential impact on built heritage was given due consideration in the formulation of Development Plan policy.

7.5.12. With regard to the concerns raised that the overall scale and height etc. of the proposed development will detract from the existing two-storey, Victorian, terraced housing along the northern side of Parnell Street, in addition to the detached property known as 'Dubross House' to the immediate north along Trinity Street, it should be noted that none of these structures are subject to any statutory protection in the Development Plan. Whilst I would acknowledge the attractive qualities and architectural character of the streetscape along Parnell Street, it is notable that only 4 No. properties along its southern side have been deemed to merit inclusion in the National Inventory of Architectural Heritage. This is likely attributable to the extensive renovation and reconstruction of multiple properties along Parnell Street as a result of damage caused by road / drainage works in the late twentieth century (the Board is referred to the photographs that have accompanied the grounds of appeal which serve to highlight the scale and extent of the repair works required). Therefore, whilst the terraced housing along both sides of Parnell Street makes for a picturesque streetscape, the northernmost terrace which adjoins the application site would appear to be less significant from a built heritage perspective. Furthermore, the four-storey return to the rear of the proposed development will only extend for a depth of approximately 27m into the site behind the main block to terminate in a position broadly in line with No. 38 Parnell Street whilst there will be a physical separation of c. 24-26m between it and the rear of Nos. 38-48 Parnell Street. Accordingly, I am inclined to suggest that given the site context, with particular reference to the width of Parnell Street and the height of the existing housing along same, in addition to the overall design and siting of the rear return, this element of the proposed development will have a limited impact, if any, on the appreciation of the wider streetscape along Parnell Street.

- 7.5.13. Whilst I would accept that the increased height of the block fronting onto Trinity Street will extend as far as the rear of No. 50 Parnell Street, it should be noted that the fourth and fifth storeys of the proposed accommodation have been recessed back from the adjacent properties in order to reduce the overall scale and massing of the construction relative to same. Moreover, the visual impact of this aspect of the proposal will clearly be more appreciable from longer range views and vantage points along Trinity Street as opposed to from within Parnell Street itself. In my opinion, localised views of the proposed development in tandem with the existing terraced housing along Parnell Street (and from within the street itself) will be relatively limited given the specifics of the site context.
- 7.5.14. In relation to the neighbouring property known as 'Dubross House' to the immediate north of the site alongside Trinity Street, it is listed in the National Inventory of Architectural Heritage (Ref. No. 15505103) as being of 'regional' importance by reference to its architectural qualities and is noted for its pleasing visual statement within Trinity Street. The property is described as an attached three-bay, two-storey house, extant 1882, and is considered to represent an important component of the mid nineteenth-century built heritage of Wexford which has been well maintained with its elementary form, massing, and substantial quantities of the original fabric remaining intact. However, 'Dubross House' is not a protected structure nor is it situated within an Architectural Conservation Area. At present, this detached dwelling occupies a somewhat isolated position within Trinity Street given that it is bounded by open parking / circulation areas to both the north and south and it is this lack of definition within the streetscape caused by the hotel car park to the north and the adjacent open storage / parking area within the subject site to the south which contributes to the somewhat prominent nature of the existing property. Whilst I would acknowledge the architectural merits of building in question, consideration must also be given to the fact that the subject lands occupy a key town centre location and form part of a larger opportunity site that has been identified as suitable for a 5-6 storey high development. Cognisance should also be given to the precedent for taller buildings within the immediate site surrounds by reference to both the Talbot Hotel and the 'Seascape Apartments' block. Therefore, I am inclined to suggest that some degree of compromise is warranted in this instance.

7.5.15. The proposed development will not directly impact on 'Dubross House' although it will clearly change its setting and context within the streetscape. In this regard, whilst the property in question is not a protected structure, Objective BH11 of the Development Plan seeks to encourage the retention of all structures of vernacular heritage merit which are not protected structures but which make a positive contribution to the character, appearance and quality of local streetscapes in Wexford Town. Accordingly, in aiming to balance the wider benefits accruing from the redevelopment of the subject site with the need to preserve the appreciation of 'Dubross House' and its contribution to the streetscape, I am inclined to suggest that there would be some merit in reducing the scale and massing of the northernmost element of the proposed construction which currently extends to six storeys. In my opinion, the omission of Unit Nos. 37 & 43 from the fourth and fifth floors (in addition to the likely loss of Unit No. 38 which may be partly subsumed into Unit No. 39 to create a three-bedroom apartment located behind the stair core) would provide a more suitably graduated stepping of construction along the streetscape which would also reduce the impact of the proposal on the immediate setting and appreciation of 'Dubross House' to within more acceptable limits.

7.5.16. Therefore, on the basis of the foregoing, and subject to some reconfiguration which may be addressed as a condition of any decision to grant permission, I am satisfied that the proposed development will not give rise to any unacceptable impact on built heritage considerations.

7.6. **Traffic Considerations:**

7.6.1. *The Proposed Access Arrangements:*

7.6.2. At present, the application site is accessed directly from Trinity Street via a simple priority junction with the existing entrance arrangement incorporating a right-hand turning lane for vehicles entering the site from the public road in addition to a yellow junction box within the westbound carriageway of Trinity Street that serves to prevent the access from being blocked by main road traffic. The proposed development will utilise a similar access arrangement with a new entrance to be provided at the same location that will continue to operate as a priority junction whilst maintaining a right-hand turning lane off Trinity Street. This new entrance will facilitate a service roadway with a carriageway width of 5m that will extend through the frontage

construction in order to provide access to surface car parking to the rear of the site in addition to the basement level car park. Provision has also been made for pedestrian footpaths to either side of the service road that will extend to provide dedicated access to both the rear apartment units and a disabled car parking bay. The Transportation & Traffic Impact Statement provided with the application states that the new entrance arrangement has been designed in accordance with the Design Manual for Urban Roads & Streets with respect to turning radii, width and visibility provision whilst Drg. No. P001 Rev. A: *'Proposed Road Layout, Levels and Water Supply Layout'* details the improved definition to be provided to the priority junction (by way of new build-outs) and the existing on-street parking arrangements etc. to either side of same.

- 7.6.3. In terms of trip generation and the potential impact on the surrounding road network, I would refer the Board to Sections 4, 5 & 6 of the Transportation & Traffic Impact Statement which details the traffic volumes and flows along Trinity Street (the R730 Regional Road) during the AM & PM peak hours (based on traffic counts undertaken on 10th October, 2018) before analysing the trip generation rates consequent on the proposed development by reference to the TRICS database. This analysis has disregarded any potential modal split of the predicted trip generation rates (attributable to the use of alternative modes of transport given the site location relative to the town centre and the availability of local bus services) and thus provides for a robust assessment on the assumption that all generated trips will be way of private car / vehicle. It has also equated the distribution of traffic flows from the proposed development onto the public road by reference to the directional patterns established from traffic surveys / counts conducted during peak hours.
- 7.6.4. Having established the total number and distribution of trips likely to be generated by the proposed development, the Transportation & Traffic Impact Statement proceeds to assess the impact of same on existing traffic conditions. In this regard, it has been suggested that the subject proposal will generate less traffic than the historical use of the property as a hardware / DIY store and thus it represents a preferable land use from a traffic impact perspective in terms of the overall reduction in traffic volumes and the removal of a significant number of larger vehicles from the local road network. Regrettably, no historic trip generation data is available as regards the former use of the site, although the nature of that business in terms of the sale of

bulky goods and building supplies would lend credence to the applicant's assertion whilst the Planning Authority has not openly objected to such a proposition.

- 7.6.5. In assessing the traffic impact relative to the current vacant site, it has been submitted that the traffic volumes generated by the proposal will be low relative to the existing traffic flows along Trinity Street with the most significant impact being an increase of 2.62% in northbound traffic during the PM peak hours. In this respect, it has been suggested that an increase of less than 5% over background traffic conditions would have no material impact on the performance of a road link or junction.
- 7.6.6. From a review of the available information, including the Transportation & Traffic Impact Statement, and noting the likely prospect of a modal split towards more sustainable modes of transport given the site location within Wexford town centre and its proximity to local bus and rail services, in my opinion, the proposed development will not give rise to any significant material impact on the operation or safety of the surrounding road network. In this respect, cognisance should also be taken of the historical use of the site in question for retail / commercial purposes and that the proposal provides for a high-density, mixed-use redevelopment of an underutilised town centre site which would accord with the strategic aims for such areas as set out in local planning policy and national guidance.
- 7.6.7. *Car Parking and Servicing Arrangements:*
- 7.6.8. In accordance with Table 4: 'Car Parking Standards' of the Development Plan, car parking for the proposed development is to be provided at the following rates
- Apartments: 1.5 No. spaces per unit
 - Shopping: Retail Floorspace: 1 No. space per 20m².
- 7.6.9. Therefore, on the basis that the proposed development comprises 45 No. apartments in addition to 518m² of retail floorspace, it would generate a demand for c. 93 No. parking spaces (i.e. 67 No. spaces for the apartment units and 26 No. for the retail area).
- 7.6.10. The proposed development provides for a total of 71 No. spaces by way of a combination of surface level (41 No.) and basement (30 No.) car parking and thus there is a shortfall in the general parking requirement. In this regard, I would refer the

Board to Section 7 of the Transportation & Traffic Impact Statement wherein it stated that 67 No. spaces will be provided for the proposed apartments in line with the requirements of the Development Plan with the remainder to be allocated for use by staff employed in the retail units. Notably, no additional car parking provision is proposed for customers of the retail units on the basis that full usage of the spaces by apartment owners will only occur between 18:00-08:00 on weekdays and Sundays with the result that a significant number of spaces will be vacant during normal shopping hours for use by customers and other staff of the retail units. It has also been submitted that the proposed retail units will only generate a demand for 17 No. parking spaces on the basis of a net retail floorspace of c. 340m² (derived from a ratio of 65% GFA: Retail Area) and that the shortfall in parking for these units will be addressed through the shared usage of the vacant 'apartment' spaces during working hours and also by customers etc. availing of the on-street parking and public car parks within a short walking distance of the site (by way of clarity, Table 4: 'Car Parking Standards' of the Development Plan does not specify whether the parking requirement for shop units is to be calculated on the basis of 'gross' or 'net' retail floorspace).

- 7.6.11. Whilst I would acknowledge the merits of the applicant's submission with regard to the proposed car parking arrangements, given the site location within Wexford town centre and its proximity to local services and amenities, including public transport, I am more amenable to a relaxation in the applicable parking standards by reference to the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018*' which state that in larger scale and higher density apartment developments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. Within more intermediate urban locations, such as those served by public transport or close to town centres, the Guidelines also state that consideration must be given to a reduced overall car parking standard and application of an appropriate maximum car parking standard. On balance, I would concur with the assessment by the Planning Authority that the site location would warrant a relaxation in the applicable parking standard to 1 No. space per apartment unit. This would have the effect of necessitating a total of 71 No. parking spaces for the proposed apartments (45 no.

spaces) and retail units (26 No. spaces) and thus the proposal as submitted would provide for adequate on site parking.

7.6.12. In terms of servicing / delivery arrangements etc., it has been submitted that no dedicated loading bay has been provided within the confines of the development on the basis that to allow larger vehicles to enter the site would be at variance with the design objective of creating a safe and quiet environment for residents of the apartments incorporating a shared surface, public open space and other amenity areas. Instead, it is envisaged that a section of the existing on-street parking along the site frontage onto Trinity Street could serve as a loading bay with parking within that area to be restricted to certain hours. In this regard, it is proposed to relocate the existing disabled parking space to the south of the site frontage to a new position further north in order to accommodate a new loading bay that would serve the retail units (please refer to Section 7.11 of the Transportation & Traffic Impact Statement as supplemented by Drg. No. P001 Rev. A: *'Proposed Road Layout, Levels and Water Supply Layout'*). In my opinion, given the available carriageway width along Trinity Street, and noting that a loading bay at the location proposed could also be used by the adjacent 'Centra' store (which is bounded by a bus stop alongside Trinity Street), this would seem to represent a practical solution to the servicing requirements of both existing and proposed retail units. A replacement disabled parking bay will also be provided as part of the development.

7.6.13. With regard to refuse collection, the site layout plan shows the proposed bin storage area located at the intersection of the internal service roads providing access to the surface car parking and the basement level thereby permitting a refuse collection lorry to perform a turning manoeuvre within the confines of the site as per the 'autotrack' detail shown on Drg. No. P010: *'Autotrack Movement for Refuse Vehicle'*. Given the limited frequency of refuse collection, I would consider this to be an acceptable arrangement.

7.7. Environmental Contamination / Pollution:

7.7.1. It has been established by way of the site investigations detailed in the 'Environmental Assessment' provided with the application that there are historical contamination issues on site attributable to its previous industrial use as part of the Wexford Gas Works, which included a gasometer and a coal tar processing plant. In

this regard, I would refer the Board to the series of trial pits and boreholes that were excavated / drilled on site as set out in Section 4 of that report and, more specifically, to the results of the subsequent laboratory analysis of the soil and groundwater samples taken as detailed in Section 5: '*Generic Quantitative Risk Assessment*'. In summary, in order to assess the human health and environmental risk posed by potential contaminants within the underlying soils and groundwater, the results of the laboratory analysis were compared against Generic Assessment Criteria in accordance with the UK Framework outlined by the UK Environment Agency and the Department of Environment, Food and Rural Affairs and S4ULs derived by Land Quality Management Limited. Regard was also had to the Screening Guidance Values published for a (limited) suite of contaminants with respect to the following land use scenarios: '*Residential without home-grown produce*' and '*Commercial Use*'. With regard to the communal amenity areas, S4ULs values were obtained from the '*LQM / CIEH S4ULs for Human Health Assessment*' in respect of '*Public Open Spaces near residential housing*'. Further consideration was also given to other relevant factors such as the water quality standards for surface waters and the possibility of ground gas emissions.

- 7.7.2. The Environmental Assessment has identified a number of elevated concentrations and exceedances of certain contaminants (including arsenic, lead, total petroleum hydrocarbons, polyaromatic hydrocarbons & VOCs) within either or both the underlying subsoils and groundwater. In addition, high sulphate concentrations were noted (which would be corrosive to concrete) whilst low levels of asbestos fibres were also recorded.
- 7.7.3. The report subsequently details the contamination sources, potential pathways to sensitive receptors (including future site buildings, residents, and adjacent site users), and undertakes an analysis of the risks posed to human health, ground & surface waters, and buildings, before making a series of recommendations in order to mitigate or remediate the risks identified (please refer to the summation of same contained in Section 5.7 of the Environmental Assessment). On the basis of the findings and conclusions derived from the site investigations and the GQRA, the recommendations that have been made (please refer to Section 6.2 of the Environmental Assessment for more expansive details) include the following:

- The provision of a clean cover system / capping layer to the green landscaped areas to protect future users from heavy metal and PAH contamination present within the shallow soils. This engineered horizontal layer of 'uncontaminated' material will serve to sever the source-pathway pollutant linkage.
- Remedial works for VOCs by way of the incorporation of vapour protection measures into the foundations of the proposed residential building (i.e. the rear block of the development). These will include a hydrocarbon vapour reinforced proprietary membrane to prevent ingress of hydrocarbons into buildings, the sealing of all subsurface joints etc., and the provision of a ventilated sub-floor capable of providing a complete volume change every 24 hours.
- Assorted mitigation measures with regard to the off-site disposal of contaminated materials, dust monitoring and suppression, and monitoring with possible mitigation against the release of asbestos fibres.
- The decommissioning of on-site wells to avoid preferential pathways.
- The disposal off-site of waters arising from dewatering of the basement excavations.
- Adequate protection measures for the laying of services.
- The use of concrete resistant to sulphate attack.

7.7.4. In addition to the foregoing, the application has been accompanied by an Environmental Management Plan which elaborates on the aforementioned remediation measures as well as detailing proposals for groundwater monitoring and assorted construction management protocols, including asbestos risk management / mitigation measures, noise and dust monitoring, and waste management.

7.7.5. Having considered the available information, including the additional mitigation measures set out in the Natura Impact Statement, and on the basis that the requirements of the Environment Section of the Planning Authority would appear to have been addressed, on balance, I am satisfied that the proposed development will not pose a risk to public health or the environment, subject to adherence to the

mitigation and remediation measures set out in the Environmental Assessment and the Environmental Management Plan.

7.8. **Flooding Implications:**

- 7.8.1. From a review of the available information, it is apparent that consideration needs to be given to the potential flooding implications of the proposed development given its coastal location and proximity to the Wexford quayside. In this respect I would advise the Board at the outset that whilst the National Flood Hazard Mapping available from the Office of Public Works indicates historical flooding of the quayside and those properties along the seaward side of Trinity Street directly opposite the application site, it does not record any flood events within the confines of the site itself, although it should be acknowledged that this mapping is not definitive and serves only as a useful tool in highlighting the potential for flood events in a particular area. Similarly, although the most up-to-date flood mapping prepared by the Office of Public Works as part of its CFRAM programme, which has recently been made available on www.floodinfo.ie and serves to inform the development of Flood Risk Management Plans for specific areas, does not record any incidences of flooding on site, it must also be accepted that this mapping has limitations in terms of identifying flood risk in any given area.
- 7.8.2. However, Flood Zone Map Nos. 1 & 2 of the Strategic Flood Risk Assessment contained in Volume No. 7 of the Wexford County Development Plan, 2013-2019 both indicate that the north-eastern extent of the site area along its frontage onto Trinity Street is to some degree within the identified extent of Flood Zones 'A' and 'B'. In this regard, I would advise the Board that the SFRA utilises two sets of flood zone maps for the purposes of screening for flood risk: JBA Consulting Engineers and Scientists (Map No. 1: '*Flood Zones Map*') and the Office of Public Works (Map No. 2: '*OPW Flood Extents*'). The mapping compiled by JBA Consulting Engineers (which was commissioned by Wexford County Council in 2010 to prepare flood zone maps for the county) shows a considerable proportion of the site area (including much of that area to be occupied by the footprint of the proposed building) within Flood Zone 'A', however, the OPW mapping (which is derived from its Preliminary Flood Risk Assessment prepared in 2011) shows a considerably lesser extent of the site area (effectively comprising the public footpath alongside the site with only a minimal encroachment into the confines of the site proper) within the projected

extent of 'Coastal Flood Zone B' only. Therefore, there are conflicting accounts within the aforementioned flood mapping as regards the extent or prevalence of flood events both on site and in its immediate surrounds.

7.8.3. In analysing the veracity of the available flood maps, cognisance should perhaps be taken of the fact that the SFRA was compiled in 2013 and is based on increasingly out-dated mapping prepared in 2010 & 2011. Moreover, Map No. 2: '*OPW Flood Extents*' derives from the OPW's Preliminary Flood Risk Assessment and in this respect I would draw the Board's attention to the contents of Circular PL2/2014 issued by the Department of the Environment, Community and Local Government on 13th August, 2014 which states that the Draft Indicative Preliminary Flood Risk Assessment Maps compiled by the Office of Public Works and published in 2011 (as part of the CFRAM programme) were prepared for the purpose of an initial assessment, at a national level, of areas of potentially significant flood risk and that *'the maps provide only an indication of areas that may be prone to flooding. They are not necessarily locally accurate and should not be used as the sole basis for defining Flood Zones, or for making decisions on planning applications'*. This Circular further recommends that for the purposes of decision-making in respect of planning applications, a Stage II Flood Risk Assessment as set out in '*The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009*' should be undertaken where there are proposals for development in areas that may be prone to flooding). In contrast, the most up-to-date flood mapping prepared by the Office of Public Works as part of its CFRAM programme (please refer to www.floodinfo.ie), which serves to inform the current Flood Risk Management Plan for the Slaney & Wexford Harbour River Basin as published on 19th February, 2018, does not record any incidences of flooding on site.

7.8.4. The application has been accompanied by a Flood Risk Assessment (December, 2018) prepared by '2HQ' Consulting Engineers which has sought to assess the risk to the proposed development from all potential sources of flooding and the necessity for the implementation of suitable mitigation measures where appropriate. This report has sought to emphasise that the CFRAMS-modelled flood maps for both fluvial and tidal events do not indicate any flooding on site. It further states that as the application is not within an identified flood zone (i.e. Flood Zones 'A' or 'B') that the completion of a Stage 2 Scoping or 'Justification Test' in line with the '*Planning*

System and Flood Risk Management, Guidelines for Planning Authorities' is not warranted.

- 7.8.5. In relation to the potential for pluvial flooding, the FRA has acknowledged that excessive surface water runoff during extreme storm events may result in surcharging of the proposed surface water drainage system, however, the finished ground levels on site will be such that overland flow will drain by gravity away from the proposed development to low points on site causing temporary flooding of less vulnerable land uses i.e. green spaces and parking areas. In addition, following consultations with the Planning Authority, it has been agreed that the finished floor levels of the proposed development (i.e. 2.15m & 2.25m AOD along Trinity Street) will be reflective of recent neighbouring developments whilst the access road to the basement will rise to a level of 2.48mAOD in order to provide that space with an added level of protection against flooding.
- 7.8.6. On the basis of the available information, with particular reference to the up-dated flood mapping compiled by the Office of Public Works, it would appear that the entirety of the application site is located within Flood Zone 'C' as defined by the *'Planning System and Flood Risk Management, Guidelines for Planning Authorities'*. In this regard, I would refer the Board to Table 3.1 of the Guidelines which sets out the classification of various land uses / development types which are either highly vulnerable, less vulnerable, or water-compatible. Within Flood Zone 'C' all forms of development, including highly vulnerable development, are deemed to be *'appropriate'* as per the criteria set out in Box 5.1 of the Guidelines and thus do not have to demonstrate compliance with the 'Justification Test'. Moreover, the site location outside of Flood Zones 'A' and 'B' does not give rise to any specific concerns as regards the potential displacement of floodwaters.
- 7.8.7. Therefore, on the basis of the available information, the proposed development would appear to be acceptable from a flood risk management perspective.

7.9. **Appropriate Assessment:**

- 7.9.1. From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation, there are a number of protected sites within the wider area, with the closest such sites being the

Slaney River Valley Special Area of Conservation (Site Code: 000781), approximately 80m northeast of the site, and the Wexford Harbour and Slobbs Special Protection Area (Site Code: 004076), approximately 400m northeast of the site. In this respect it is of relevance to note that it is an objective of the Planning Authority, as set out in Chapter 8: '*Conservation and Heritage*' of the Wexford Town & Environs Development Plan, 2009-15, to conserve, protect and enhance in general the character of Wexford as defined by its natural heritage and biodiversity, built environment, landscape and culture. Furthermore, Objective NH7 of the Plan aims to prohibit development which would damage or threaten the integrity of sites of international or national importance, designated for their habitat / wildlife or geological / geomorphological importance, including the proposed Natural Heritage Areas, candidate Special Areas of Conservation, Special Protection Areas, Ramsar sites and Statutory Nature Reserves. In addition, Objective NH8 requires any project that has the potential to significantly impact on the Slaney River Valley and Wexford Harbour to be subjected to an appropriate ecological assessment

- 7.9.2. By way of further clarity, I would refer the Board to Chapter 14: '*Heritage*' of the Wexford County Development Plan, 2013-2019 wherein it is stated that it is an objective to conserve and protect the integrity of sites designated for their habitat / wildlife or geological / geomorphological importance and to prohibit development which would damage or threaten the integrity of these sites, including SACs, cSACs, SPAs, NHAs, pNHAs, Nature Reserves, and Refuges for Fauna. Moreover, Objective NH03 aims to ensure that any plan or project and any associated works, individually or in combination with other plans or projects, will be subjected to Appropriate Assessment Screening to ensure there are no likely significant effects on the integrity of any Natura 2000 site and that the requirements of Article 6(3) and 6(4) of the EU Habitats Directive are fully satisfied. In those instances where the plan / project is considered likely to have a significant effect on a Natura 2000 site, it will be subject to Appropriate Assessment and will only be permitted to proceed after it has been ascertained that it will not adversely affect the integrity of the site or where, in the absence of alternative solutions, the plan/project is deemed imperative for reasons of overriding public interest, all in accordance with the provisions of Articles 6(3) and 6(4) of the EU Habitats Directive.

7.9.3. In effect, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive. Accordingly, it is necessary to screen the subject proposal for the purposes of ‘appropriate assessment’.

7.9.4. *Stage 1: Screening:*

7.9.5. In screening the subject proposal for the purposes of appropriate assessment, I would refer the Board at the outset to Section 1 of the Natura Impact Statement which has accompanied the application. This states that the requirement for the completion of a Natura Impact Statement for the subject project derives from the Planning Authority’s previous assessment of an earlier planning application lodged on site and refused permission under PA Ref. No. 20181012. In that instance it was held that Stage 2 Appropriate Assessment was necessitated due to the uncertain effects following a review of the Environmental Report that accompanied said application which indicated a moderate risk of shallow perched groundwater impacting on the Slaney River Special Area of Conservation and other associated European Sites i.e. the Wexford Harbour and Slobbs Special Protection Area. More specifically, given the presence of potentially contaminating material on site (as supported by the Environment Assessment submitted with the subject application) and the likelihood of a potential impact pathway in the form of the migration of contaminants within the groundwater and bedrock aquifers to the protected sites, it was considered that potential impacts on the Natura 2000 sites could not be ruled out.

7.9.6. Whilst I would broadly concur with the foregoing rationale, in the interests of completeness, it is necessary to undertake a more in-depth screening of the proposal for the purposes of appropriate assessment.

7.9.7. In accordance with the advice contained in the *‘Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities’* published by the Department of Environment, Heritage and Local Government, it can be established that the following 12 No. European Sites are within a 15km radius of the proposed works:

- The Slaney River Valley Special Area of Conservation (Site Code: 000781)

- The Wexford Harbour and Slobs Special Protection Area (Site Code: 004076)
- The Lady's Island Lake Special Protection Area (Site Code: 004009)
- The Raven Special Protection Area (Site Code: 004019)
- The Tacumshin Lake Special Protection Area (Site Code: 004092)
- The Long Bank Special Area of Conservation (Site Code: 002161)
- The Carnsore Point Special Area of Conservation (Site Code: 002269)
- The Blackwater Bank Special Area of Conservation (Site Code: 002953)
- The Lady's Island Lake Special Area of Conservation (Site Code: 000704)
- The Tacumshin Lake Special Area of Conservation Site Code: 000709)
- The Raven Point Nature Reserve Special Area of Conservation (Site Code: 000710)
- The Screen Hills Special Area of Conservation (Site Code: 000708)

7.9.8. In addition to the foregoing, using the precautionary principle, I would also advise the Board that I have given consideration to Natura 2000 sites located outside of the defined 15km radius, however, as no potential pathways for any significant impacts can be established, it can be concluded that there is no potential for any impacts on those Natura 2000 sites located outside the 15km radius.

7.9.9. In terms of assessing the potential direct, indirect or secondary impacts of the proposed development on the conservation objectives of the aforementioned Natura 2000 sites, it should be noted at the outset that due to the location of the proposed works outside of any Natura 2000 designation, and the separation distances involved, it is clear that the subject proposal will not directly impact on the integrity of any European Site (such as by way of habitat loss or reduction). However, having reviewed the available information, in light of the nature and scale of the proposed development, the specifics of the site location relative to certain Natura 2000 sites, and having regard to the prevailing site topography, in my opinion, by employing the source / pathway / receptor model of risk assessment, it can be determined that specific consideration needs to be given to the likelihood of the proposed development to have an adverse effect on the conservation objectives of the Slaney River Valley Special Area of Conservation and the Wexford Harbour and Slobs

Special Protection Area on the basis that the proposed development site is situated up-gradient of these Natura 2000 sites with groundwater likely draining towards same via the harbour i.e. it will be necessary to consider the potential implications for down-gradient protected habitats & species within the foregoing sites arising from any potential deterioration in water quality attributable to the proposed works given the hydrological connectivity between the application site and those European sites.

7.9.10. Accordingly, the screening exercise for the purposes of appropriate assessment should be focused on the following:

European Site: *The Slaney River Valley Special Area of Conservation*
(Site Code: 000781)

Distance & Direction: c. 80m northeast

Qualifying Interests: [1029] Freshwater Pearl Mussel *Margaritifera margaritifera*
[1095] Sea Lamprey *Petromyzon marinus*
[1096] Brook Lamprey *Lampetra planeri*
[1099] River Lamprey *Lampetra fluviatilis*
[1103] Twaite Shad *Alosa fallax*
[1106] Atlantic Salmon *Salmo salar* (only in fresh water)
[1130] Estuaries
[1140] Mudflats and sandflats not covered by seawater at low tide
[1355] Otter *Lutra lutra*
[1365] Harbour Seal *Phoca vitulina*
[3260] Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation
[91A0] Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles

[91E0] * Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)

Conservation Objectives: To maintain or restore the favourable conservation condition of the species and habitats for which the SAC has been selected.

(The status of the freshwater pearl mussel (*Margaritifera margaritifera*) as a qualifying Annex II species for the Slaney River Valley SAC is currently under review. The outcome of this review will determine whether a site-specific conservation objective is set for this species).

European Site: The Wexford Harbour and Slobs Special Protection Area
(Site Code: 004076)

Distance & Direction: c. 400m northeast

Qualifying Interests: [A004 Little] Grebe *Tachybaptus ruficollis* wintering
[A005] Great Crested Grebe *Podiceps cristatus* wintering
[A017] Cormorant *Phalacrocorax carbo* wintering
[A028] Grey Heron *Ardea cinerea* wintering
[A037] Bewick's Swan *Cygnus columbianus* wintering
[A038] Whooper Swan *Cygnus cygnus* wintering
[A046] Light-bellied Brent Goose *Branta bernicla hrota* wintering
[A048] Shelduck *Tadorna tadorna* wintering
[A050] Wigeon *Anas penelope* wintering
[A052] Teal *Anas crecca* wintering
[A053] Mallard *Anas platyrhynchos* wintering
[A054] Pintail *Anas acuta* wintering
[A062] Scaup *Aythya marila* wintering
[A067] Goldeneye *Bucephala clangula* wintering

- [A069] Red-breasted Merganser *Mergus serrator* wintering
- [A082] Hen Harrier *Circus cyaneus* post-breeding/roost
- [A125] Coot *Fulica atra* wintering
- [A130] Oystercatcher *Haematopus ostralegus* wintering
- [A140] Golden Plover *Pluvialis apricaria* wintering
- [A141] Grey Plover *Pluvialis squatarola* wintering
- [A142] Lapwing *Vanellus vanellus* wintering
- [A143] Knot *Calidris canutus* wintering
- [A144] Sanderling *Calidris alba* wintering
- [A149] Dunlin *Calidris alpina* wintering
- [A156] Black-tailed Godwit *Limosa limosa* wintering
- [A157] Bar-tailed Godwit *Limosa lapponica* wintering
- [A160] Curlew *Numenius arquata* wintering
- [A162] Redshank *Tringa totanus* wintering
- [A179] Black-headed Gull *Chroicocephalus ridibundus* wintering
- [A183] Lesser Black-backed Gull *Larus fuscus* wintering
- [A195] Little Tern *Sterna albifrons* breeding
- [A395] Greenland White-fronted goose *Anser albifrons flavirostris* wintering
- [A999] Wetlands

Conservation Objectives: To maintain the favourable conservation condition of the species and habitats for which the SPA has been selected.

7.9.11. The Environmental Assessment provided with the application has established that there are historical contamination issues on site attributable to its previous industrial use as part of the Wexford Gas Works. In this regard, a number of elevated

concentrations and exceedances of certain contaminants (including arsenic, lead, total petroleum hydrocarbons, polyaromatic hydrocarbons & VOCs) within the underlying subsoils and groundwater have been identified. Accordingly, concerns arise as regards the potential migration of contaminated groundwater from the project site to the Slaney River Valley Special Area of Conservation and the Wexford Harbour and Sloba Special Protection Area.

7.9.12. Following consideration of the 'source-pathway-receptor' model, with particular reference to the potential for negative impacts on down-gradient water quality as a result of the migration of contaminated groundwater towards the harbour / sea during the construction stage of the proposed development, and notwithstanding that the Generic Quantitative Risk Assessment detailed in the Environmental Assessment concluded that the risk of contaminated groundwater migrating from the site and polluting the Slaney Estuary was low, it is my opinion that, in accordance with the precautionary principle, it is not possible to rule out the likelihood of the proposed development adversely impacting on a Natura 2000 site and that particular consideration needs to be given to the likelihood of the proposal to have an adverse effect on the conservation objectives of the Slaney River Valley Special Area of Conservation and the Wexford Harbour and Sloba Special Protection Area. Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the likelihood of the proposed development adversely affecting the aforementioned Natura 2000 site cannot be objectively ruled out and therefore it is necessary to proceed to 'Appropriate Assessment (Stage 2)'.

7.9.13. *Stage 2: Appropriate Assessment:*

7.9.14. With regard to the Stage 2 Appropriate Assessment set out in the Natura Impact Statement which has accompanied the subject application, I am generally satisfied that it has adequately identified the key characteristics of the potential impacts arising as a result of the proposed development which would be likely to undermine the stated conservation objectives of the designated sites i.e. the potential indirect impact on down-gradient water quality and the aquatic environment due to the lateral migration of contaminated groundwater. In this respect the NIS has identified the following habitats & species / qualifying interests within the SAC & the SPA as

potentially being adversely affected as a result of the hydrological pathway for water pollution:

The Slaney River Valley Special Area of Conservation:

- Estuaries
- Mudflats and sandflats not covered by seawater at low tide
- Sea Lamprey: The potential exists for this species to occur in association with mudflat habitats in the vicinity of the project site.
- Twaité Shad: This species is known to rely on Wexford Harbour.
- Otter: This species is known to occur at Wexford Harbour and is likely to interact with waters of the Slaney Estuary downstream of the project site.
- Harbour Seal: This species is known to occur at Wexford Harbour and is likely to interact with waters of the Slaney Estuary downstream of the project site.

7.9.15. For the purposes of clarity, I would advise the Board whilst Table 6.1 of the NIS states that neither '*Estuaries*' nor '*Mudflats and sandflats not covered by seawater at low tide*' are likely to be adversely affected by the project due to the separation distances involved and likely the dilution and dispersal of waters downstream at Wexford harbour, this would seem to be in error as it is subsequently acknowledged that both habitats could potentially be affected by polluting hydrological emissions arising from the project. In this regard, having reviewed '*Map 3: Slaney River Valley Conservation Objectives: Estuaries*' and '*Map 4: Slaney River Valley Conservation Objectives: Tidal Mudflats and Sandflats*' as appended to the Conservation Objectives, I would concur with such a conclusion given the proximity of same to the project site.

The Wexford Harbour and Slobbs Special Protection Area:

- Cormorant
- Redshank
- Black-Headed Gull: Gull species are known to roost along a breakwater downstream of the project site.
- Lesser Black-Headed Gull: Gull species are known to roost along a breakwater downstream of the project site.

- Wetlands and Waterbirds: Wetland habitats occur downstream of the project site.

7.9.16. Whilst Table 6.2 initially states that '*Cormorant*' & '*Redshank*' are unlikely to be adversely affected by the proposal, it is apparent from a review of same that this is an error given that both species are known to roost along a breakwater downstream of the project site.

7.9.17. Section 8 (Table 8.1) of the NIS proceeds to assess the potential for the proposed development to result in adverse effects on the attributes and targets for each of the relevant qualifying features of interest within the Natura 2000 sites. In this respect, particular reference has been made to the impact of pollutants on the attributes of the identified species / habitats, however, it has been emphasised that the Generic Quantitative Risk Assessment detailed in the Environmental Assessment has found that the risk of pollution to the estuary etc. will be very low and thus the impacts on species populations etc. are also predicted to be very low.

7.9.18. At this point I would advise the Board that the results of the borehole investigations detailed in the Environmental Assessment would appear to indicate that significant groundwater contaminant concentrations are not present along the north-eastern, south-eastern and south-western site boundaries meaning groundwater contaminants are not presently migrating off site in such concentrations as to impact on off-site water receptors to a level that would cause groundwater quality standards to be exceeded at the receptor. In support of the foregoing, it has been submitted that although elevated contaminant concentrations were found to be present in Borehole Nos. MW103 and MW104 along the north-western site boundary, the down-gradient well at MW105 did not record significantly elevated concentrations thereby suggesting contaminants are not presently migrating towards off-site water receptors.

7.9.19. In order to provide further assurance against any risk to water quality in the Slaney Estuary and Wexford Harbour from contaminated groundwater, the NIS proposes the following mitigation measures:

- All measures outlined in the Environmental Management Plan provided as part of the planning application will be implemented in full.

- Where off-site disposal of contaminated solids (waste) is required, all lorry loads will be sheeted once loaded and before leaving the site to reduce dust generation, Provision will be made for washing vehicles' wheels at the site entrance to prevent any mud being deposited on local roads.
- Any stockpiles containing soils will be placed on an impermeable surface while awaiting the results of validation testing. The stockpiles will be sheeted to minimise dust emissions and also to minimise the potential for leaching rainwater and runoff contaminating clean areas.
- Adequate precautions will be taken during site works to prevent surface water runoff from the site affecting the local surface waters and drainage network.

7.9.20. On balance, I would accept that the implementation of best practice and adherence to the mitigation measures set out in the NIS (and the Environmental Management Plan) will serve to avoid any impacts on down-gradient water quality thereby ensuring that there are no significant adverse effects on protected sites.

7.9.21. With regard to the potential for in-combination / cumulative impacts with other plans or projects, and noting the planning history of the surrounding area, I am also satisfied that the proposed development, subject to suitable mitigation, would not be likely to give rise to any in-combination / cumulative impacts with other plans or projects which would adversely affect the integrity of any Natura 2000 site and would not undermine or conflict with the Conservation Objectives applicable to same.

7.9.22. Therefore, I consider it reasonable to conclude, on the basis of the information available, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, when taken individually and in combination with other plans or projects, will not adversely affect the integrity of the Slaney River Valley Special Area of Conservation (Site Code: 000781) or the Wexford Harbour and Slob Special Protection Area (Site Code: 004076), or any other European site, in view of the sites' conservation objectives.

8.0 Recommendation

8.1. 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 considerations and subject to the conditions set out below:

9.0 Reasons and Considerations

9.1. Having regard to the following:

- The town centre location of the site within an established built-up area on lands with the zoning objective 'Town Centre', which seeks to 'To protect and enhance the special physical and social character of the existing Town Centre and to provide for new and improved Town Centre facilities and uses', in the Wexford Town & Environs Development Plan, 2009-2015;
- the policies set out in the Wexford County Development Plan, 2013-2019 and the Wexford Town & Environs Development Plan, 2009-2015
- the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016;
- the Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of the Housing, Planning and Local Government in March 2018;
- the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Housing and Local Government in November 2009;
- the Urban Development and Building Heights, Guidelines for Planning Authorities, issued by the Department of the Housing, Planning and Local Government in December 2018;

- the Architectural Heritage Protection, Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in 2004;
- the nature, scale and design of the proposed development;
- the availability in the area of a wide range of social, community and transport infrastructure;
- the pattern of existing and permitted development in the area;
- the planning history within the area; and
- the submissions and observations received;

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenity of the area, would be acceptable in terms of the residential amenity of future occupants, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of pedestrian and traffic safety, would not be prejudicial to public health, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following
 - a) Revised plans, sections and elevations at an appropriate scale omitting the entire fifth floor level.

- b) Revised plans showing the omission of Unit Nos. 37 & 38 from the fourth floor and the amalgamation of that part of Unit No. 38 located behind the stair core with Unit No. 39.
- c) Revised plans and elevations at an appropriate scale showing the provision of 1.8m high obscure screening along the south-eastern end of those balconies serving Unit Nos. 11, 22, 33 & 42.
- d) Revised plans and elevations at an appropriate scale showing the provision of suitable screening of the fourth-floor communal roof garden to mitigate against overlooking of neighbouring dwelling houses within Parnell Street.

Reason: In order to protect the amenities of the existing streetscape and nearby residential properties.

- 3. All of the mitigation measures set out in the Environmental Assessment, Environmental Management Plan, the Natura Impact Statement Impact, and other particulars submitted with the application, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

- 4. 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. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of public health.

- 5. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

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

Reason: In the interest of visual amenity.

7. The internal road network serving the proposed development, including turning bays, junctions, parking areas, facilities for the recharging of electric vehicles, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

8.

- a) At least one car parking space shall be permanently assigned to each residential unit and shall be solely reserved for this purpose.
- b) All of the communal parking areas serving the apartments shall be provided with ducting for electric vehicle charging points, to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply 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 clarity and sustainable transportation.

9. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any apartment.

Reason: In the interests of amenity and public safety.

10. 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 proposed development.

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

11. Proposals for a development name, apartment/commercial unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment/commercial unit numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

12. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:
- a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
 - b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
 - c) details of proposed street furniture, including bollards, lighting fixtures and seating;
 - d) details of the boundary treatment at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

13. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- i) the nature and location of archaeological material on the site, and
- ii) the impact of the proposed development on such archaeological material.

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

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

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

14. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

15. Site development and building works shall be carried only out between the hours of 0700 to 1800 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 amenities of property in the vicinity.

16. 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management

17.

- a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities, for each apartment unit 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.
- b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

18. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future

maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

19. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

20. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

21. No awnings, canopies, roller shutters or additional external lighting shall be erected or displayed on the premises or within the curtilage of the site without a prior grant of planning permission.

Reason: In the interest of visual amenity.

22. Details of all mechanical ventilation, extraction, heating or cooling systems shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To protect the amenity of the area.

23. 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.

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

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

25. 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, watermains, 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

26. 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.

Robert Speer
Planning Inspector

16th December, 2019