



An
Bord
Pleanála

Inspector's Report ABP-304667-19

Development	Mixed use Building extension including 14 apartments and offices and all associated works
Location	EuroSpar, 129-131 Ballymun Road, Dublin 9
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	2581/19
Applicant(s)	Glenella Foods Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Glenella Foods Limited
Observers	WHD Residents Association and others
Dates of Site Inspection	20 th September, 15 th November 2019
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site is located in a neighbourhood centre that fronts onto the west side of Ballymun Road at its junction with St Pappin's Road about 1.5km south of Ballymun town centre. The opposite side of the Ballymun Road is a mix of housing set back from the Ballymun Road and open parkland/campus lands (adjacent to DCU/Hampstead Park to the south east. The centre comprises a curved row of four blocks of two storey premises in keeping with the two-storey residential character of the area. These parades of commercial premises are separated from the main junction by a slip road and landscaped buffer. Off-street perpendicular car parking is provided on each side of the slip road and to the front of the premises in addition to parallel street parking in the adjacent road network. No charging is in place.
- 1.2. The subject site is one of the four blocks which is occupied by a small supermarket and sandwich bar at ground level with offices over. Upper floor access is on the southern gable. A small gated yard is located on the northern gable end. The ground floor premises have been considerably extended to the rear covering the original site almost entirely. The adjacent block to the north has been extended at first floor and attic levels projecting from the apex with a resulting asymmetrical roof profile.
- 1.3. The premises are operating a supermarket offering range of fresh and convenience products and includes an off-license, a cooked food/ deli counter and butchers counter. A small trolley bay is located off the footpath. At time of inspection two large commercial bins were also stored off the footpath alongside the road. Car park spaces were full in addition to some double parking and parking partly on footpaths and adjacent roads. One small delivery truck was parked partly on the footpath along Ballymun Road.

2.0 Proposed Development

- 2.1. It is proposed to extend the ground floor premises by re-constructing/extending the first floor and adding 3 floors overhead to create a 5-storey mixed use building. A total of 14 one-bedroom apartments with a total net floor area of 46.1 sq.m. are proposed in the upper floors.

- 10 units @ 55 sqm. (46.1 sq.m. net bed/bath/store/kitchen/living room floor area) with balcony of 8.2sq.m. overlooking the road.
- 2 units @ 52 sq.m. (52.8sq.m.net bed/bath/store/kitchen/living room floor area) with balcony of 13.5sq.m. overlooking to the rear.
- A communal roof garden of 89 sq.m. overlooking the road
- Offices are proposed at first floor level to the rear of the apartments and an intervening open courtyard area of 81 sq.m. provides a 4.2m separation between the apartments which have own door access from the courtyard. This is direct from the courtyard at first floor level and via cantilevered walkways at 2nd and 3rd floor levels. The top floor is accessed from an enclosed glazed corridor that faces onto the road and the balconies at this level overlook the rear courtyard.
- The overall design of the multi-storey is a simple block format stacked over the supermarket building with a very shallow mono-pitched roof which is recessed from the facade to provide a communal roof terrace. The central block contains the apartments with east facing windows and glazed balustraded balconies projecting from the façade over the footpath. It is flanked by new stair and lift service cores at each end. These cores are shown to have stone cladding whereas the walls of the central element are depicted in a different shade but unspecified material/finish. Roof materials include aluminium capping and windows are also clad in aluminium. The side elevations are white render. The elevation is repeated at 1st -3rd floor and the top floor is slightly varied. The top floor has more glazing which lights a circulation corridor which provides sheltered and segregated apartment access from the communal roof terrace. Balconies are west facing.
- It is proposed to refurbish the façade at ground level.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for the following reasons:

- The proposed development by reason of its excessive height, monolithic design, scale and elevational treatment would result in a building being visually obtrusive

and serve to have an adverse impact on the character of the area when viewed in the context of the existing streetscape along this part of Ballymun Road, The proposed development would by itself and the undesirable precedent it would set for other developments would therefore seriously injure the amenities of property in the vicinity and is therefore contrary to the provisions within the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

- The proposed development in its current form would provide for a poor standard of residential amenity to future occupants particularly with regard to the quality of private and communal open spaces and circulation areas including provision of daylight/sunlight to these spaces and the proposed shared access with the retail/office elements of the scheme which would have a detrimental impact on the amenity, safety and security of future residents of the development. The proposed development is therefore contrary to the provisions within the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports: This report refers to

- A comprehensive range of policies promoting the sustainable colonisation of suburban centres particularly along public transport corridors, taller buildings and a mix of house types, while also applying appropriate development standards and protecting an intrinsic quality of a low-rise city.- see SC10, SC13, SC14, SC16, ,
- the need for a positive contribution to the urban character of the area and quality design. SC17, SC25, QH1, QH3, QH 5, QH6, QH7, QH9, QH13, QH18, QH19, QH20, GI13, GI14 and GI33.
- The planning history
- The issues raised in 63 letters of objections

3.2.2. The report examines inter alia, the form and height, overshadowing, overlooking, housing mix and density and internal apartment layout and access layout, quality of private and communal open space, absence of car parking and bicycle parking,

managed, waste management. While a mix of uses is acceptable in principle it is considered that the proposed development would result in a building form that would be visually obtrusive and out of character when viewed in the context of the existing streetscape along this part of Ballymun Road. It is also considered substandard residential accommodation for future occupants.

3.2.3. The overall floor area is generally acceptable save for concerns relating to clarity of storage area incorporating a hot press in the store room, substandard entrance by reason of natural illumination and space which for example could not easily accommodate delivery of bulky items. It should be designed to be welcoming and large enough to comfortably accommodate wheelchair access, furniture deliveries and movement.

3.2.4. Other concerns raised include:

- No details relating to management, maintenance or operation of the development as required under section 16.10.1 of Development Plan and sections 6.11-6.15 of Apartment guidelines
- No details of storage and collection of waste. Concerns about capacity particularly in relation to facilities for existing retail operation.
- Public open space: A contribution in lieu is appropriate for the site location and context.
- Parking while a maximum of 31 spaces could be provided in accordance with the development the proximity to public transport is accepted to reduce this necessity. A total of 10 spaces for residential development is considered appropriate. No parking is likely to cause conflict in uses and overspill into the surrounding road network.
- Part V While the applicant has indicated a willingness to comply with options for social and affordable housing in accordance with section 96, there is no evidence of discussion or agreement with DCC re agreement in principle for such measures if any.
- AA screening should be required.

3.2.5. Other Technical Reports

Drainage Division: Further information required as it is not possible to ascertain that the satisfactory drainage can be provided. A comprehensive engineering services report is required in respect of foul and surface water drainage.

Transportation Planning Division: It is noted that no car parking is provided and the consequent reliance on communal spaces for residences is unacceptable as it would result in an overspill of parking onto the adjoining road network. Further details required in this regard including details of legal entitlement to use space and management and control of such if proposed to rely on same. Details of bicycle parking and also outline construction management plan are required.

3.3. Prescribed Bodies

No report from Irish Water

3.4. Third Party Observations

A total of 63 observations were made to the planning authority and the issues are summarised in the planning report of the planning authority.

4.0 Planning History

PA ref 0141/19 refers to Grant of a Social Housing Exemption Cert on 11th April 2019 for the proposed development of 14 apartments on site.

PA ref 1528/01 refers to grant of permission for a two-storey extension to front and side of the premises on site. Condition 5 restricted first floor storage to ancillary use for ground floor retail.

5.0 Policy Context

5.1. Dublin City Development Plan 2016-2022

- 5.1.1. The site is in a Z3 zone which is designated District Centre where the objective is to provide for and improve mixed-services facilities. The plot ratio is guided at 1.5-2 and site coverage is guided and 60 per cent.

- 5.1.2. The site is in Parking zone 3 where a maximum of 1.5 car park space applies to each residential use and 1 space per 100 sq.m. of offices.
- 5.1.3. There are many strategic policies in relation to urban development and consolidation which are cited in the planning authority's report. More specifically, in terms of development standards, section 16.2 provides guidance for design approach and standards for development. Development will respond creatively to and respect and enhance its context and have regard to:
- The character of adjacent buildings, the spaces around and between them and character and appearance of the local area and the need to provide appropriate enclosure to streets.
 - The character, scale and pattern of historic streets, squares, lanes, mews and passageways.
 - Existing materials, detailed building lines, scale, orientation, height and massing, plot width.
 - The form, character and ecological value of parks, gardens and open spaces and Dublin's riverside and canal-side settings.

5.2. **National Planning Framework (2018)**

- 5.2.1. The National Planning Framework seeks compact urban growth, with the associated objective that at least half of the future housing growth of the main cities will be delivered within their existing built-up areas through infill and brownfield development and 40% in other key towns. Key objectives include
- NPO 2(a) which refers to growth in our cities;
 - NPO 3(a)/(b)/(c) which rerefers to brownfield redevelopment targets;
 - NPO 4 which refers to attractive, well-designed liveable neighbourhoods;
 - NPO 5 which refers to scale and quality of urban development; and
 - NPO 6 which refers to increased residential population and employment in urban areas;
 - NPO13 which refers to a move away from blanket standards for building height and car parking etc. and instead basing it on performance criteria.

5.3. **Urban Design and housing standards.**

5.3.1. The following documents set out detailed design guidance pertinent to this appeal:

- Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018)
 - Specific Planning Policy Requirement 1: Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).
 - Specific Planning Policy Requirement 2: For all building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha:
 - Where up to 9 residential units are proposed, notwithstanding SPPR 1, there shall be no restriction on dwelling mix, provided no more than 50% of the development (i.e. up to 4 units) comprises studio-type units;
 - Where between 10 to 49 residential units are proposed, the flexible dwelling mix provision for the first 9 units may be carried forward and the parameters set out in SPPR 1, shall apply from the 10th residential unit to the 49th;
- Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (2009)
- Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)

5.4. **Natural Heritage Designations**

North Dublin Bay SAC 000206 (c.6.3km to the southeast).

North Bull Island SPA 004006 (c.6.3km to southeast).

South Dublin Bay and River Tolka Estuary SPA 004024 (c.3.9km to southeast).

6.0 The Appeal

6.1. Grounds of Appeal

- The proposed development is generally in compliance with development plan and ministerial guidance.
- The height is not excessive and is an appropriate form of densification. It is within the 16m height limit.
- It is only monolithic in context of undeveloped flanks.
- The context will be changed by this development which will set the way for appropriate change. This is a logical and necessary step. Assessing on basis of underdeveloped low density effectively freezes development and restricts height increase which will compromise implementing strategy of densification
- Elevational treatment can be addressed.
- The second reason for refusal is disputed on the basis that the development has been carefully considered in respect of space circulation, light and access. It is acknowledged that further building regulation/structural will need to be addressed post planning permission.
- It is felt that the planning authority has been overly negative and has been perhaps influenced by the level of objections which are described as politically orchestrated.
- It is submitted that the development responds creatively to the criteria set down in section 16.2.

6.2. Planning Authority Response

No further comments

6.3. Observations

6.3.1. A total of 21 observations have been submitted to the Board which support the decision by Dublin City Council and object to the development on the basis of the following concerns:

- Scale and 15m height are excessive and inappropriate where prevailing height of 2 storey development which is in the order of 8.85m.
- Visual impact of incongruous monolithic design - No apparent consideration of visual integration with existing – no visual impact assessment.
- Design, materials and finishes are incongruous.
- The junction location provides an opportunity for a more innovative and remarkable design solution to issues raised.
- Falls short of section 5.3 guidance for adaptability and high-quality design, well designed communal areas and good property management.
- Design does not integrate with existing built form and context and it completely disregards the neighbouring development. This is contrary to sections 5.5.6 and 4.5.4.1 which require that successful apartment living requires that the scheme must be designed as an integral part of the neighbourhood and that proposals for taller buildings must respect the context and address the assessment criteria.
- It would not successfully integrate or enhance the character or public realm. It completely disregards existing character and this is contrary to multiple policies and guidance. It is completely impractical to rely on a universal addition of one or two storeys to the surrounding dwellings.
- While policy supports higher development, this should be in a planned format such as designated sites or through LAP or SDZ – the site is not governed by such a plan.
- Stormanstown House development 3209/06 is a standalone site for 100% residential involving complete demolition and is in a different context in Ballymun where there is a comprehensive programme of redevelopment and is not directly relevant. The conjectured scenario of 3-4 storeys is not a realistic basis for assessing proposed development and distracts from the core issues.

- Section 1.3 of the guidelines state that in determining planning policy and making planning decisions around appropriate building heights, the planning process has to strike a careful balance between enabling long term strategic development of an area and ensuring the highest standard of urban design, architectural quality and place-making outcomes.
- Nature of apartments : Too many one bed units and potential for student rental very high due to this accommodation with no parking and proximity to DCU.
- Substandard development.
- Overshadowing: Loss of sunlight in gardens such as along Dean Swift Road. Impact on daylight and sunlight generally.
- Overlooking particularly from 4th floor.
- Traffic and transport Impact due to absence of car and bike parking and existing chaos associated with businesses at a busy junction where parking is free. There is no transport management plan. A Traffic Impact Assessment is required given the strategic location. The view that there is sufficient parking by the applicant is unsupported and relies on the assumption that the spaces are underutilized and well managed. Video evidence is submitted in support of the overspill onto St Pappins Road. This raises issues of emergency access and pedestrian safety. Parking and traffic chaos presently exists (free parking) and will be exacerbated by absence of car parking provision and management of facilities for other modes (bikes).
- Lack of management details regarding use, access, waste and utilities. Ongoing issue of retailer using footpath for refuse storage.
- Lack of ancillary facilities for super market – trollies, recycling and general failure to address congestion in area to the front. No dedicated space for services deliveries etc.
- The existing retail use needs to be reappraised in light of its chaotic arrangement regarding deliveries and servicing.

- Construction phase: Lack of detail with respect to construction management, dust noise, equipment storage, access obstruction and sanitation of footpaths that have been just cleaned.
- Structural integrity of building.
- Ongoing management phase
- The omission of the retail unit from the development site appears to be an effort to avoid development control and regularisation of issues
- Needs a detailed demolition and construction management plan.
- The comparison with the evolution of Georgian townhouses in place of cottages is not relevant as planning and democracy is now part of a more informed and equitable process.
- Disregards amenities of adjacent development.
- Impact on amenities of business.
- Overhanging balconies are a safety risk.
- Does not foster a sustainable community but instead puts a strain on the exist community.
- Welcome an improvement in the neighbourhood centre which serves those who cannot drive and are within walking distance.
- The green roof and solar panels are welcomed.
- Unclear if shop will remain open – loss of shop would be unwelcoming for residents.
- Drainage and public health issues- It is old system with a recent issue of overflow of sewerage. The Wad River is nearby and there may be flooding issues.
- Overdevelopment with no consideration of environmental impacts on neighbours – both residences and businesses.
- Case is not comparable to nearby example as that development is standalone and provides car and bicycle parking. The design and layout of that case are also different providing for a mix of units with balconies set back from the street.

- The grounds of appeal are not supported with any constructive remedies such as modifications, technical assessments or a reasonable interpretation of guiding policies.
- Procedural: Absence of robust assessment of environmental impacts and no Appropriate Assessment. Lack of engagement with locals. Site notice not clear. The design issues cannot be addressed post decision as they are not trivial.
- The 63 objections were not the result of an orchestrated political campaign. Concerns raised are valid. To state that they are politically driven is taken as a strategy to undermine the third parties.

6.4. Further Responses

None

6.5. EIA Screening

- 6.5.1. The proposal is for a mixed-use development in an urban area by way of a vertical extension. It incorporates 14 housing units and is subthreshold. It is a small-scale development and while ordinarily such development is not likely to have significant effects on the environment in this case it is in addition to a supermarket on site and there are unresolved drainage issues. The objectors refer to the fact that development is reliant on an old system designed to cater for family houses and notably refer to a recent issue of overflow of sewerage which has not been addressed. It is submitted that this is possibly related to grease traps associated with waste from the supermarket. The increased loading in these circumstances is likely to exacerbate a localised problem. The drainage division requires further information and in the absence of such information and taking a precautionary approach it cannot be ruled out that there may be environmental impacts. The need for environmental impact assessment cannot, therefore, be excluded at preliminary examination.

7.0 Assessment

7.1. Issues

7.1.1. This appeal relates to a proposal for 14 apartments and offices by way of constructing an extension over an existing supermarket premises. The premises are one of four blocks of premises that together comprise a neighbourhood centre along the Ballymun Road at its junction with St Pappin's Rd. The area is characterised by relatively low density two storey residential development opposite parkland and near DCU and a proposed Metrolink station. The planning authority is opposed to the scale and quality of development and its decision to refuse permission is supported by a large volume of residents in the area. The applicant refutes these reasons primarily by reference to the need for vertical densification of the area. Accordingly the issues for consideration broadly relate to:

- Principle of development.
- Urban design: Inappropriate height, scale and design - visual impact of incongruous monolithic design.
- Use.
- Standards of apartments and amenity for future occupants : Mix, site layout, open space, ancillary services.
- Impact on residential amenity: overlooking, overshadowing, ongoing management.
- Traffic safety and impact: deficient car parking, bike parking, servicing.
- Safety of pedestrians.
- Drainage: public health issues and environmental impacts.
- Other matters: Construction phase, Part V, Management of apartments, Procedural (Site notice, legal entitlement, politically motivated)
- Appropriate Assessment

7.2. Principle of development in terms of form and use

7.2.1. The site is located in a district centre where the objective is to provide for a vibrant mix of uses and accordingly the principle of additional residential development incorporating offices over a retail premises is generally acceptable. In this case however permission is predicated on being compatible with the immediate environs

and character of the area in accordance with national design guidance while also complying with normal development control criteria.

7.3. Height and form

- 7.3.1. The proposed development seeks to raise the height of the existing development by adding three storeys of development to a two-storey premises resulting in an overall height of over 15m where the existing and adjacent height is in the order of 8.85m. The planning authority acknowledges the strategic location of the district centre, proximity to a transport corridor with a QBC and the planned Collins Avenue Metrolink station and that the nature of the use is acceptable in principle. However, while a 16m height is set as a maximum limit in an outer city location such as this, the form and height are considered inappropriate having regard to the immediate context. There are also serious concerns about the integration of the proposal with the surrounding development and the ability to enhance the urban form and character of the area. A graduated approach would be more appropriate. There are particular concerns about the monolithic form and lack of variance in height, the industrial nature of the existing premises and its compatibility with the apartments.
- 7.3.2. The applicant makes the case that the height is appropriate when examined strategically as it is essentially setting a new height with the ultimate aim of land-use efficiency and consolidation in accordance with national policy. It is further anticipated that the overall context will similarly be altered by a policy that effectively allows additional storeys in low-density areas such as that surrounding the site.
- 7.3.3. There is some merit to the principle of increasing height at this district centre which fronts a 3-lane dual carriage way in the context of the “Urban Development and Building Heights Guidelines for Planning Authorities”. These guidelines seek to break the current patterns and development trends. However, these guidelines clearly specify the need for an orderly and plan led approach and Section 3.2 specifically sets out development management criteria so as to ensure that the highest standards of urban design, architectural quality and place making outcomes are also achieved. Accordingly, a proposed development should satisfy criteria set by the scale of the relevant city, district /neighbourhood /street and site/building. In this case the five-storey height and scaling of the proposal would result in an abrupt transition

of height, form and style and would jar with the prevailing streetscape character. Furthermore, the design which is repetitive and monolithic fails to contribute to an enhanced public realm and streetscape character. In overall terms, the proposed development does not meet with the guided urban design criteria and would, by itself be visually incongruous and obtrusive at this prominent location and would for this reason detract from the visual amenities of the area.

- 7.3.4. Such a reformation of the area would require a more comprehensive approach to the neighbourhood centre. In the absence of such I concur with the planning authority that a more graduated approach is required in order to successfully integrate an extension of the scale and form proposed.

7.4. **Use**

- 7.4.1. The proposal fails to provide for the statutorily guided housing mix as it is for 14 one-bedroom units whereas a mix in the nature of apartments is required by reference to SPPR1 and SPPR2 of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018). There is a further objection to the potential of the scheme for student use, however the type of tenants is not a reasonable basis to refuse permission. These concerns are more appropriately addressed through a mix of household sizes and standard and management of the overall development.

7.5. **Apartment standards and impact on residential amenity of future occupants:**

- 7.5.1. In overall terms the total floor area and density of development is quantitatively satisfactory, however, in addition to a fundamental issue of over-provision of one-bedroom units, there are a number of qualitative aspects that are likely to significantly undermine the level of amenity afforded in the proposed housing.
- 7.5.2. Twelve of the units are designed with the living area facing north east over the road junction while the bedroom accommodation faces south west into a constricted courtyard. The issue of daylight standards within the proposed apartments is a particular concern. As highlighted by the planning authority, the level of light in the courtyard at a width of 4.2m raises not only qualitative concerns for that space but also the combined impact of projecting walkways and balconies into this space and the obstruction of light penetration into the windows of habitable rooms beneath. This is not helped by the 2.4m floor to ceiling heights.

- 7.5.3. Open Space: Communal open space is proposed at first floor level and also at roof terrace level and while it comfortably exceeds the minimum guided area of what would amount to 70 sq.m. for 14 one bed units, there are serious quality issues. The roof terrace is on an exposed north east facing side fronting a busy dual carriageway and there are no landscaping details to demonstrate how this space can provide a good standard of amenity. The access and layout are more amenable for the use of the top floor two apartments. For example, access to the terrace is via the access corridor for top floor apartments which have living room windows directly open into this glazed corridor. The proposed inner courtyard at first floor level between the newly constructed offices and apartment operates as a circulation area and lightwell and is quite narrow with a width 4.2m and this is further encroached upon by overhanging walkways/balconies. It is likely to offer little by way of amenity use.
- 7.5.4. The private open space in the form of projecting cantilevered balconies, while meeting size standards, is questionable due to direct overhanging of the public footpaths on the north east side and whether or not such may be legally provided. There are no details of drainage and materials of these balconies which may also be an issue.
- 7.5.5. The planning authority also, I consider, reasonably highlights the substandard nature of the communal entrance by reason of limited natural illumination and space which for example, could not easily accommodate delivery of bulky items. It should be designed to be welcoming and large enough to comfortably accommodate wheelchair access, furniture deliveries and movement. The absence of a designated bicycle parking area coupled with absence of car parking is likely to result in further cluttering of the entrance or may even result in storage on the balconies in the absence of adequate storage/parking facilities.
- 7.5.6. There are also I consider valid concerns about conflict with office uses by reason of unspecified nature of use, security and sharing of access and circulation spaces in the context of the development plan provisions. Section 16.10.11 for example refers to mixed uses and the need to protect amenity and reduce potential conflict.
- 7.5.7. There is also an issue about the conflict with operational issues associated with the supermarket such as in relation to waste storage and servicing, cooking and venting and the potential for odours, noise, obstruction of footpath and general degradation

of amenity afforded to the future occupants. The applicant has failed to adequately address these issues.

- 7.5.8. On the basis of submitted details indicated in the application, the development does not appear to involve the rebuilding of the supermarket. In these circumstances and in view of these ongoing issues and the current layout and extensive site coverage, the options are limited to meaningfully address such matters, particularly by way of conditions of permission. The piecemeal approach of site splitting for development purposes is a missed opportunity for a comprehensive review and management of the entire development on site.

7.6. Impact on residential amenity: overlooking, overshadowing, Impact on daylight and sunlight and generation of overlooking

- 7.6.1. There is concern expressed by the surrounding residents about overlooking and overshadowing of the rear of properties, for example overlooking of the houses along Dean Swift Road from the second third and fourth floor walkways, balconies and bedroom windows. I concur with the planning authority that this issue is unlikely to be significant having regard to separation distances of about 30m to the rear boundary and separation distance of around 60m from the rear wall of these dwellings. Similarly, overshadowing is unlikely to significantly impact on residents of St Pappin's Road, Dean Swift Road and Ballymun Road due to orientation and the separation distances. There are no details submitted in respect of impact of overshadowing on immediately adjacent premises and uses and in the event of a grant of permission this merits further consideration. As the planning authority has pointed out there is no evidence in the application details that the proposed development has been guided by Daylight and Sunlight standards and this information, such as shadow analysis relating to contiguous structures and uses, would be beneficial.

7.7. Traffic safety.

- 7.7.1. A development of this scale could generate a parking need of up to 31 car park spaces in line with the development plan car parking guidance, however, the proposal does not include any car parking. This approach is justified by the applicant on the basis of existing facilities including the access to public transport such as the QBC directly fronting the site and also the planned metro station. While I note the

development plan provides for a relaxing of car parking provision in well serviced areas, the Transportation Planning Division in this case recommends that car parking should be provided at a reduced rate and amounting to 10 spaces in total. I consider this reasonable having regard to my site inspection on two occasions, the submissions on file and accordingly to the car parking situation which is quite chaotic and to the absence of any obvious coherent management of this space and the consequent impact of parking deficiency on the surrounding road network. For this reason I consider the proposed development, amounting to intensification of use of the existing site, would be likely to be prejudicial to public safety by reason of traffic hazard and furthermore, would detract from the amenities of residents in the area.

7.7.2. There is also the issue of pedestrian safety. A further intensification of use of the site of the scale proposed without any provision for car parking or car parking management, deliveries, bin collections and servicing are likely to generate parking on footpaths. The issue of bin storage for existing and proposed development on site is not clear and may obstruct the footpath. Finally, the overhanging balconies over the public footpath raises safety issues.

7.8. **Drainage**

7.8.1. Drainage and public health issues: there are unresolved drainage issues as discussed in the EIA screening section of this report. The objectors refer to the fact that development is reliant on an old system designed to cater for family houses and notably refer to a recent issue of overflow of sewerage which has not been addressed. It is submitted that this is possibly related to grease traps associated with waste from the supermarket. The increased loading in these circumstances is likely to exacerbate a localised problem. The Drainage Division requires further information and in the absence of such information and aside from the environmental aspect, I am not satisfied that the proposed development can be adequately serviced. I also note the reliance on green roofs and while this is a laudable inclusion, the structural feasibility within the framework of an extension is not entirely clear. I do not consider this matter can be appropriately addressed by condition in the event of grant of permission.

7.8.2. Flooding of the Wad River is also raised as issue. The site is however located in the Tolka Diversion catchment and is quite removed from the Historical Flooding

Locations along the Wad River Corridor to the east of the site. (Wad Drainage Catchment Study Dublin City Council, 2012) However in view of the need for an infrastructure report and possible changes in circumstances, further clarification on this matter would be beneficial in the context of drainage management and appropriate design.

7.9. Other Matters

- 7.9.1. Construction phase: There is no demolition and construction management plan. This can often be addressed by condition however in this case the extent of demolition works is unclear. The nature of the proposal is described as an extension yet there are major structural implications for the extent of the multi storey extension and green roof. While it is not strictly a reason of refusal, clarity of such should be sought prior to granting of any permission.
- 7.9.2. Closure of supermarket: There are concerns about the closure of the premises and a general support for the continuance of the grocery store. It is difficult to see how a food related premises could continue to operate with the nature of the development proposed. The temporary closure is a matter for the applicant and is not a basis to refuse permission.
- 7.9.3. Ongoing management: There are I accept no details relating to management, maintenance or operation of the development as required under section 16.10.1 of Development Plan and sections 6.11-6.15 of Apartment guidelines. A management scheme is ordinarily required and can be attached by conditions. However in this case there are underlying site layout and design constraints particularly when juxtapositioned with the supermarket to be retained thereby restricting a comprehensive redevelopment and management of the entire site.
- 7.9.4. Part V: The applicant has indicated a willingness to comply with options for social and affordable housing in accordance with section 96 and consent for a social housing exemption has also been permitted. I do not consider this issue to be material in the determination of the appeal.
- 7.9.5. Procedural: The Site Notice is criticised for being unclear. While the public notices describe the proposal generally, I accept that some issues relating to extent of works need clarity. I do not however consider revised notices would serve any purposes.

7.9.6. The observing parties strongly refute that the level of objections was based on a politically motivated and orchestrated campaign. While there is no strong evidence to support this claim, notwithstanding, I consider the observing parties have raised valid planning issues which have been acknowledged and appraised by the planning authority by reference to planning policy and which merit consideration in this appeal.

7.10. **Appropriate Assessment**

7.10.1. The closest Natura 2000 sites to the appeal site are the South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (Site Code: 004024) located to the east at Clontarf, and the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay Special Area of Conservation (SAC) (Site Code: 000206), which are both located at Dollymount strand. Other Natura 2000 sites within 15km of the appeal site include; Baldoyle Bay SAC (Site Code: 000199), Baldoyle Bay SPA (Site Code: 004016) Malahide Estuary SAC (Site Code: 000205), Malahide Estuary SPA (Site Code: 004025), Ireland's Eye SAC (Site Code: 002193), Ireland's Eye SPA (Site Code: 004117), Rockabill to Dalkey Islands SAC (Site Code: 003000), Glenasmole Valley SAC (Site Code: 001209), South Dublin Bay SAC (Site Code: 000210), Rogerstown Estuary SAC (Site Code: 000208), Rogerstown Estuary SPA (Site Code: 004015), Rye Valley / Carton SAC (Site Code: 001398), Howth Head SAC (Site Code: 000202), Howth Head Coast SPA (Site Code: 004113), Lambay Island SAC (Site Code: 000204) and Lambay Island SPA (Site Code: 004069). Qualifying interests and conservation objectives for each of the above sites are listed on the National Parks and Wildlife Services (NPWS) website.

7.10.2. The site is in the Tolka River diversion catchment which provides a pathway to Coastal sites in Dublin Bay. The site is indirectly connected to the Coastal SACs/SPAs due to the fact that foul water from the serviced sites in this area is typically discharged via the public system to the Ringsend Waste Water Treatment Plant (WWTP). Permission has been granted (ABP-301798-18) for works which will increase the capacity of the plant from 1.9m PE to 2.4m PE. There is however insufficient information with respect to drainage and a detailed engineering report is required by the Drainage Division. Accordingly it cannot be concluded that the foul and surface water discharge can be adequately catered for. There is also lack of

clarity on the extent of demolition and management of same and extent of generation and control of air and water borne pollutants. Potential pathways between the appeal site (source) and the Natura 2000 sites (receptors) relating to drainage during construction cannot be ruled out. While noting the nature of the development, its location in a serviced urban area and the separation distance from any European site, it is considered on a precautionary basis that in the absence of further information it cannot be concluded that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site. A Natura Impact Statement is therefore required. In the absence of such the Board is precluded from granting permission.

8.0 Recommendation

8.1. I recommend a decision to refuse permission for the following reasons.

9.0 Reasons and Considerations

1. The proposed development by reason of its excessive height, scale, monolithic design, elevational treatment and abrupt transition with adjacent development would result in a building being visually obtrusive and out of character when viewed in the context of the existing streetscape along this part of Ballymun Road. It would constitute a piecemeal and disorderly approach to development at this location contrary to the provisions of Urban Development and Building Heights, Guidelines for Planning Authorities (2018). The proposed development would therefore seriously injure the amenities of property in the vicinity and is accordingly contrary to the provisions within the Dublin City Development Plan 2016-2022. The proposed development would therefore, by itself and by the undesirable precedent it would set, be contrary to the proper planning and sustainable development of the area.
2. The proposed development by reason of design and layout, including inadequate provision of qualitative open space and reliance on encroachment of a public footpath for private amenity, lack of adequate communal facilities in relation to

access, parking and servicing and lack of an appropriate mix of apartment types, would fail to establish a satisfactory standard of amenity for future occupants and would not deliver a high-quality apartment development. Furthermore the Board is not satisfied that the proposed residential use would be compatible with the ongoing and future commercial uses in the absence of management and operational details. The proposed development would, therefore, conflict with the relevant provisions of the Dublin City Development Plan 2016-2022, the provisions of 'Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes, Sustaining Communities' published in 2007 by the Department of the Environment, Heritage and Local Government, and would be contrary to the provisions of 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities' published in 2018 by the Department of Housing, Planning and Local Government, which states as the purpose of the Guidelines 'to strike an effective regulatory balance in setting out planning guidance to achieve both high quality apartment development and a significantly increased overall level of apartment output'. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on South Dublin Bay and River Tolka Estuary Special Protection Area (SPA) (Site Code: 004024) or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

Suzanne Kehely

Senior Planning Inspector

21st November 2019