



An  
Bord  
Pleanála

## Inspector's Report

### ABP-304866-19

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<b>Development</b>	Change of use from restaurant to 6 apartments.
<b>Location</b>	Kiltipper Café Bar, Marlfield, Tallaght, Dublin 24
<b>Planning Authority</b>	South Dublin County Council
<b>Planning Authority Reg. Ref.</b>	SD19A/0135
<b>Applicant(s)</b>	Three Castle Investments Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Third Party V Decision.
<b>Appellant(s)</b>	Three Castle Investments Ltd.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	6 <sup>th</sup> November 2019.
<b>Inspector</b>	Susan McHugh

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## 1.0 Site Location and Description

- 1.1. The appeal site is located in the suburb of Kiltipper, approx. 2.5km to the south of Tallaght town centre, and 3.5km west of Junction 12 Firhouse on the M50 in west Dublin. The subject site is located within 125m of the Deerpark Avenue roundabout to the west which connects to Kiltipper Way and direct access to Marlfield Row.
- 1.2. It is in a local commercial centre serving a mature residential area which comprises a mix of housing types with established and newer residential development.
- 1.3. The appeal site relates to the first floor of a two storey plus mezzanine block, also referred to as Block C. Block C is located to the south of three other three storey Blocks A, B and D collectively known as Marlfield Mall. The four blocks are arranged around a central surface car parking area, over basement car park. Each block comprise commercial units at ground floor with residential units over.
- 1.4. The southern elevation Block C faces onto Marlfield Row, and opposite a four storey block with commercial units at ground floor with residential units above. Many of the commercial units at ground floor are vacant.
- 1.5. Block C accommodates a large public house, restaurant and off licence at ground floor, while the first floor and mezzanine are currently vacant. The first floor and mezzanine level are accessed via two stair/lift cores located either side of the existing bar and restaurant. Pedestrian access to the basement car park is provided via a stair core and pedestrian entrance doorway adjacent to the eastern access to the block.
- 1.6. Two external terraces are located on the eastern and western ends of the block which reads as a two storey block to the south and a three storey block to the north. There is fenestration along the entire northern and southern elevations and partly along the eastern and western elevations. It includes a variety of finishes including brick render and timber panelling, with a distinctive a curved copper roof, and clock tower and chimney.
- 1.7. The stated site area is 0.1ha.

## 2.0 Proposed Development

- 2.1. Permission is sought for the following;
  - 2.1.1. Change of use of vacant first floor level restaurant approved under P.A. Reg.Ref. SD02A/0482 to provide a residential use comprising a total of 6 apartments, including 2 one bedroom and 4 two-bedroom units with apartments 1, 2 and 5 served by private balconies;
  - 2.1.2. Minor alterations to northern, western and southern elevations, including access to communal open space at first floor level;
  - 2.1.3. 6 vehicular parking spaces at basement level; 6 dedicated bicycle/storage units at mezzanine level and dedicated bin storage area at ground floor level;
  - 2.1.4. All ancillary works necessary to facilitate the development.
  - 2.1.5. The application was accompanied by the following;
    - Planning Report

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority decided to refuse planning permission as follows;

1. *'The proposed development contravenes the following policies and objectives of South Dublin County Council County Development Plan 2016-2022;*

*(a) Urban Centres (UC) Policy 5 Local Centres UC5 Objective 1*

*(b) HOUSING (H) Policy 11 Residential Design and Layout H11 Objective 1*

*(c) HOUSING (H) Policy 13 Private and Semi-Private Open Space*

*(d) HOUSING (H) Policy 15 Privacy*

*(e) Security H15 Objective 4*

*(f) HOUSING (H) Policy 8 Residential Densities H8 Objective 6*

*Furthermore, having regard to:*

- (i) *The proposed location over a large public house and the likely impact of the public house on the residential amenity of the proposed dwellings;*
- (ii) *The proposed private/amenity open space and communal open space provision;*
- (iii) *Proximity to neighbouring residential development and the overlooking that would arise;*
- (iv) *The density of residential development proposed;*
- (v) *The lack of waste management proposed,*

*The proposed development would not provide a quality residential environment for future occupants. Thus, the proposed development would seriously injure the amenities of future residents and of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.'*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Report (dated 12/06/2019)**

The Planner's Report is the basis for the Planning Authority decision. It includes:

- *Council Policy* - is to support the improvement of local centres, and to improve the use of upper floors, with due cognisance to the quality of urban design integration, linkage, accessibility and protection of residential amenity. Residential development is permitted in principle.
- *Density* - equates to 60 units per hectare which is higher than that set out in local policy and national guidelines, and not conducive to the creation of a quality residential development.
- *Mix* – equates to one third 1 bedroom and two thirds 2 bedroom units.
- *Noise* – The ground floor premises is a large public house incorporating lounge sports bar, as well as external smoking area adjacent. There is also a car park adjacent to the north and a fast food take away also adjacent to the car park with roads to the south east and west. The units would be located at first floor above the public house and bar. No details of the hours of operation of the public house, details of the likely noise impacts, or proposals for

mitigating same provided. The County Development Plan states that the design of 'over the shop' accommodation should include mitigation measures to address possible sources of external noise. It also states that at the discretion of the planning authority and subject to appropriate safeguards to protect residential amenity, reduced internal space, open space and parking standards may be considered in exception circumstances for dwelling subdivisions or 'over the shop' accommodation, subject to compensating amenity features that maintain the residential amenities of the development and/or the area.

- Development plan requirements in relation to noise have not been met and disregards the practicalities of living over a large public house and the likely impacts in terms of residential amenity which is not considered acceptable.
- *Design and Layout* – The southern façade of the proposed units would be in close proximity to existing apartments to the south across Marfield Row, with a separation distance of between 16m and 17m from opposing above ground floor windows. Refers to Policy UC5 Objective 1, Policy H15 Objective 4 and Section 11.3.1 of the County Development Plan and notes that this arrangement is not considered acceptable.
- *Sunlight and Daylight* – All of the apartments are south facing with 4 no. south facing equating to 66% being dual aspect. Notes that the roof overhang and ground floor parapet wall along the southern elevation reduce the access to sunlight and daylight, and that no assessment of access to sunlight and daylight submitted.
- *Internal room dimensions and storage* – All apartments and rooms meet guideline requirements. All of the proposed apartments are significantly deficient in terms of internal storage requirements; however, storage areas are proposed at mezzanine level which would bring the provision in line with requirements.
- *Private Open Space* – Only three of the apartments would have private open space, while the remaining three do not, which is unacceptable. Notes that there is an existing space at first floor at the northern façade, it measures

43sqm and runs adjacent to 2 of the proposed apartments with no private amenity space.

- *Public and Communal Open Space* – No public open space proposed but notes proximity of a large park. The applicant proposes 90sqm of communal open space. An existing terrace at the western end of the premises at first floor, which currently serves the bar is to be converted into communal open space and with an area of 38sqm is in excess of the county development plan requirement. It would be accessible for three of the apartments directly from their stair core, the easternmost apartments would have to exit the building and re-enter through the other stair core to access the communal space. This arrangement for one of the apartments which has no private open space is unacceptable.
- *Refuse* – No details in relation to waste management provided which is unacceptable.
- *Visual Amenity* – Minimum changes proposed, including changing windows to glass doors which is considered acceptable.
- Recommends permission be refused.

### 3.2.2. Other Technical Reports

**Roads Department:** No objections.

### 3.3. Prescribed Bodies

**Irish Water:** No objections.

### 3.4. Third Party Observations

None.

## 4.0 Planning History

**P.A.Reg.Ref.SD08A/0503:** Permission **granted** 21/10/2008 for changes to permitted Reg.Ref. SD02A/0482 & SD06A/0978 consisting of the sub-division of a

permitted restaurant and associated storage area at first and second floor of no. 2 Marfield Mall to proposed 2 no. restaurants including kitchens, ancillary and common areas and shared access, with a total floor area of 671sq.m. and alterations to north elevation of the building. The proposed development includes for all associated site development and infrastructural works located at Marfield Mall, Kiltipper Way, Dublin 24.

**P.A.Reg.Ref.SD06A/0978:** Permission **granted** 24/04/2007 for Retention of changes of use to the restaurant (1st Floor, Block C) granted under SD02A/0482 including: (1) increase first floor area from 445sq.m. to 455sq.m; (2) conversion of second floor roof space to use a storage area and (3) change to south elevation of Block C at first floor level.

**P.A.Reg.Ref.SD02A/0482:** Permission granted 13/03/2003 for commercial/residential development in accordance with the Kiltipper Local Area Plan and the needs of a local centre and a community facility in the area and in compliance with a condition attached to an existing adjoining permission for residential development Reg. Ref. S00A/0660. The development consists of 4 no. 2 and 3 storey blocks consisting of;

(1) 2 and 3 storey Block A with 6 no. ground floor commercial units and 6 no. 3 bed duplex apartments and 2 no. 1 bed apartments on the upper levels,

(2) 2 storey Block B with ground floor crèche and 5 no. 1 bed apartments with gallery access,

(3) 2 storey Block C with ground floor public house and 1st floor restaurant incorporating minor modifications to layout, plans and elevations to current application including associated service areas including kitchen and cellar and clock tower and

(4) 3 storey Block D with 6 no. ground floor commercial units and 6 no. first floor 2 & 3 bed duplex apartments.

The development which has a total floor area of approx. 6,685sq.m. on a site of approx. 0.83 ha which incorporates .25ha of adjoining public open space to the north of previous permission Reg Ref S97A/0309 will include all site development works, revised basement and ground level car parking, infrastructural services, landscaping



and open spaces on site located north of Kiltipper Road and east of newly constructed Kiltipper/Killinarden Distributor Road with access off existing roundabout on Kiltipper Way.

**P.A.Reg.Ref.SD00A/0660 ABP Ref. PL06S.127148:** Appeal withdrawn.

## 5.0 Policy Context

### 5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

The National Planning Framework targets a significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas. National Policy Objective 13 refers to urban areas, and that planning and related standards including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high quality outcomes in order to achieve targeted growth.

### 5.2. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009

- 5.2.1. These guidelines should be read in conjunction with the Department's planning guidelines on design standards for new apartments, published in 2007. The objective of these guidelines is to promote high quality developments. These guidelines have a companion design manual showing how design principles can be applied in the design and layout of new residential developments at a variety of scales of development and in various settings. The design manual sets out a series of 12 criteria which should be used at pre-application meetings and in the assessment of planning applications and appeals.
- 5.2.2. Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2015, updated March 2018
- 5.2.3. These guidelines seek to uphold proper standards for apartment design to meet the accommodation needs of a variety of household types and sizes – including households with a child or children, students, older people and an increasingly mobile workforce and secondly 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.

5.2.4. These guidelines specify planning policy requirements for:

- Internal space standards for different types of apartments, including studio apartments;
- Dual aspect ratios;
- Floor to ceiling height;
- Apartments to stair/lift core ratios;
- Storage spaces;
- Amenity spaces including balconies/patios;
- Room dimensions for certain rooms.

The focus of this guidance is on the apartment building itself and on the individual units within it.

*SPPR 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)'.*

### 5.3. **Development Plan**

5.3.1. The **South Dublin County Development Plan 2016-2022** is the relevant policy document pertaining to the subject site. The site is zoned '**LC**' and the zoning objective seeks '*To protect, improve and provide for the future development of Local Centres*'. Residential development is permitted in principle within the LC zoning.

5.3.2. **Chapter 2** refers to Housing  
**Policy H8 Residential Densities**

*'It is the policy of the Council to promote higher residential densities at appropriate locations and to ensure that the density of new residential development is appropriate to its location and surrounding context.'*

**Policy H8 Objective 6**

*'To apply the provisions contained in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009) relating to Outer Suburban locations, including a density range of 35-50 units per hectare, to greenfield sites that are zoned residential (RES or RES-N) and are not subject to a SDZ designation, a Local Area Plan and/or an approved plan, excluding lands within the M50 and lands on the edge or within the Small Towns/ Villages in the County.'*

**Policy H11 Residential Design and Layout**

*'It is the policy of the Council to promote a high quality of design and layout in new residential development and to ensure a high quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development.'*

**Policy H11 Objective 1**

*'To promote a high quality of design and layout in new residential development and to ensure a high quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development in accordance with the standards set out in Chapter 11 Implementation.'*

**Policy H12 Open Space**

*'It is the policy of the Council to ensure that all residential development is served by a clear hierarchy and network of high quality public open spaces that provides for active and passive recreation and enhances the visual character, identity and amenity of the area.'*

**Policy H13 Private and Semi-Private Open Space**

*'It is the policy of the Council to ensure that all dwellings have access to high quality private open space (Inc. semi-private open space for duplex and apartment units) and that private open space is carefully integrated into the design of new residential developments.'*

**H13 Objective 1**

*‘To ensure that all private open spaces for apartments and duplexes including balconies, patios and roof gardens are designed in accordance with the qualitative and quantitative standards (including minimum balcony size and depth) set out under Sustainable Urban Housing: Design Standards for New Apartments, DECLG (2015), the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009) and the accompanying Urban Design Manual – A Best Practice Guide, DEHLG (2009).’*

### **H13 Objective 2**

*‘To ensure that new apartments have access to high quality and integrated semi-private open space that supports a range of active and passive uses, in accordance with the quantitative standards set out in Chapter 11 Implementation.’*

### **H13 Objective 3**

*‘To ensure that private amenity spaces for houses are designed in accordance with the quantitative standards set out in Chapter 11.0 Implementation and the qualitative standards set out under the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) including the accompanying Urban Design Manual – A Best Practice Guide (2009).’*

### **Policy H14 Internal Residential Accommodation**

*‘It is the policy of the Council to ensure that all new housing provides a high standard of accommodation that is flexible and adaptable, to meet the long term needs of a variety of household types and sizes.’*

### **Policy H15 Privacy and Security**

*‘It is the policy of the Council to promote a high standard of privacy and security for existing and proposed dwellings through the design and layout of housing.’*

### **H15 Objective 1**

*‘To ensure that there is a clear definition between private, semi-private and public open space that serves residential development.’*

### **H15 Objective 2**

*‘To ensure that all developments are designed to provide street frontage and to maximise surveillance of streets and spaces.’*

### **H15 Objective 3**

*‘To ensure that private open spaces are enclosed within perimeter blocks behind the building line and that they are subdivided by suitably robust boundary treatments of a sufficient height and composition to provide adequate privacy and security.’*

#### **H15 Objective 4**

*‘To ensure that opposing balconies and windows at above ground floor level have an adequate separation distance, design or positioning to safeguard privacy without compromising internal residential amenity’.*

#### **H15 Objective 5**

*‘To investigate a protocol for the development of CCTV systems within housing areas where it is demonstrated that there is a clear security and safety need subject to the protection of residential amenities including the privacy of existing dwellings.’*

#### **5.3.3. Chapter 5** refers to Urban Centres and Retailing.

**UC Policy 5** refers, *‘It is the policy of the Council to encourage the provision of an appropriate mix, range and type of uses in Local Centres, including retail, community, recreational, medical and childcare uses, at a scale that caters predominantly for a local level catchment, subject to the protection of the residential amenities of the surrounding area.’*

**UC5 Objective 1:** *‘To support the improvement of local centres, and encourage the use of upper floors, with due cognisance to the quality of urban design, integration, linkage, accessibility and protection of residential amenity.’*

#### **5.3.4. Chapter 11** refers to Implementation.

**Section 11.3.1** Residential (v) Privacy states that a separation distance of 22 metres should generally be provided between directly opposing above ground floor windows to maintain privacy.

**Section 11.3.2** Residential (iv) Dwelling sub-division and ‘over the shop’ accommodation should accord with the relevant guidelines and standards contained in this Development Plan relating to apartments and contribute positively to the established character and amenities of the area. The design of ‘over the shop’ housing should include mitigation measures to address possible sources of external noise. A separate, distinctive point of entry with an identifiable address should also be provided.

**Section 11.4.2** Car parking Standards.

**Section 11.4.3** Car Parking for Electric Vehicles

#### 5.4. **Natural Heritage Designations**

Not relevant given the existing development on site.

#### 5.5. **EIA Screening**

Having regard to the nature the proposed development, the nature of the receiving environment, and proximity to 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 third party appeal against the decision of the planning authority has been lodged by Hughes Planning and Development Consultants on behalf of the applicant. The main grounds of the appeal can be summarised as follows;

- *Permitted Commercial Use* - The first floor of Marlfield Mall was approved under Reg. Ref. SD02A/0482 for restaurant use, but this was never enacted.
- The existing permitted use of the first floor level as a restaurant is not feasible at this location. The viability of a commercial development at this location was considered at an early stage and notes the lack of commercial investment within the immediate area.
- *Proposed Residential Use* - The proposed residential use, with ancillary works at ground/mezzanine level allows for an efficient use of zoned and serviced land, and is appropriate given the location of the site within suburban Dublin and.
- *Response to Assessment by the P.A.* - A response to each of the policies and objectives of the South Dublin County Council Development Plan 2016-2022 listed

by the planning authority as being contravened is presented. These include the following;

- Urban Centres Policy UC5 – Local Centres
- Housing Policy H11 - Residential Design and Layout
- Housing Policy H13 - Private and Semi-Private Open Space
- Housing Policy H15 - Privacy and Security
- *Revised Design* – Comprises the removal of 1 no. residential unit to allow for the provision of 1 no. one bedroom and 4 no. two bedroom units within the revised first floor level. The omission of the sixth unit allows for the provision of private amenity space to serve each of the remaining 5 no. units. Screening measures have been installed, in the form of vertical screens and screen planting, to address the overlooking concerns raised by the planning authority.
- The revised design has been prepared in response to the issues raised by the planning authority, and again comments on the revised specifically in terms of each of the policies and objectives of the South Dublin County Council Development Plan 2016-2022 as referenced by the planning authority in their assessment as being contravened.
- In the interests of avoiding unnecessary repetition between responses on the proposed and revised design, issues raised/addressed are summarised as follows;
  - *Urban Centres Policy UC5 Obj. 1:* Allows for the efficient use of the first floor level, with units located within central Kiltipper, and are considered to provide a high standard of residential accommodation. Notes the extent of and communal amenity space proposed and the of public amenity spaces within easy walking distance from the appeal site.
  - *Housing Policy H11 Obj. 1:* Allows for the provision of a more legible layout at first floor level with each unit served by dedicated private amenity space accessible from the principal living area.
  - *Housing Policy H13 Obj. 1, 2 and 3:* Each of the 5 no. units is now provided with dedicated private amenity space which meets/exceeds the required standards for 1 and 2 bedroom units in accordance with the Design Standards

for New Apartments – Guidelines for Planning Authorities (March 2018).  
Notes the extent of communal amenity space proposed and of public amenity spaces within easy walking distance from the appeal site.

- *Housing Policy H15 Obj. 1, 2, 3,4,5 and 6*: There is a clear definition between private and communal amenity spaces; a greater extent of security through the enhanced surveillance of Marfield Row to the south of the site; that private amenity spaces are suitably enclosed and screened so as to provide adequate privacy and security for future occupants; diminish the perceived threat of overlooking resulting from the proposed units in the adjoining apartment block to the south; applicant is willing install a CCTV system, reduction in residential density from 60 units her hectare as lodged to 50 units per hectare as revised.
- *Noise* – Disagree that the location of the apartment scheme above a public house will have any undue impact on the residential amenity of the units. Applicant willing to accept a condition requiring the provision of noise mitigation measures including triple glazed windows and sound proofing insulation.
- *Waste Management* – Facilities are provided at ground level to serve the proposed development.

## 6.2. Planning Authority Response

The planning authority confirmed its decision and considered that the issues raised by the appellants have been covered in the planners report.

## 6.3. Observations

None received.

## 6.4. Further Responses

None received.



## 7.0 Assessment

7.1.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues are addressed under the following headings:

- Principle of Development
- Design and Layout
- Residential Amenity
- Private, Semi-Private & Communal Open Space
- Other matters
- Appropriate Assessment

### 7.2. Principle of Development

7.2.1. The South Dublin County Development Plan 2016-2022 is the current statutory development plan for the area. The site has a land-use zoning objective of Local Centre 'LC', the objective of which is to 'to protect, improve and provide for the future development of Local Centres'. Residential development is permitted in principle within the 'LC' zoning. I am satisfied that the proposal is broadly in line with the zoning objective for the area.

7.2.2. Under the current application a change of use is proposed from the permitted restaurant use at first floor, to residential use, comprising 6 no. apartments. This was modified in the appeal to 5 no. apartments with a consequent reduction in residential density from 60 to 50 units per hectare. I consider the reduced density is generally acceptable at this location within a Local Centre and is in compliance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).

7.3. Permission was granted under P.A.Reg.Ref.SD02A/0482 for a two storey block which comprised ground floor public house and first floor restaurant. While this permission was subsequently amended the first floor has remained vacant. I would

also note the high level of vacancy at ground floor level of the commercial units within Marfield Mall and in the block opposite the appeal site along Marfield Row. Some of the occupied commercial units at ground floor comprise a discount store, crèche and Italian fast food restaurant.

- 7.3.1. I can confirm from my site inspection that that all of the residential units within Marfield Mall and Marfield Row appeared occupied. I am satisfied given the length of time the appeal site has remained vacant and the vacancy level in the immediately adjoining commercial units that a residential use may be a more viable use in this instance. A change of use as proposed would accord with UC5 Objective 1 of the South Dublin County Development Plan which seeks 'to support the improvement of local centres, and encourage the use of upper floors, with due cognisance to the quality of urban design, integration, linkage, accessibility and protection of residential amenity.'
- 7.3.2. In terms of existing access and movement, I note the existing surface and basement car parks, and proximity to adjoining commercial uses. I also note the proximity of Dublin Bus Route 54A which serves Tallaght Business Park and Tallaght Town Centre and the Luas Red Line and The Square Luas stop. In my opinion the proposed development will help animate this underutilised site while enhancing the built environment at this location.
- 7.3.3. I am satisfied, therefore, that the proposed change of use from commercial to residential is acceptable in principle and is broadly consistent with the provisions of the County Development Plan and is an appropriate use at this location.

#### 7.4. **Design and Layout**

- 7.4.1. There are section 28 Ministerial guidelines which should be considered in conjunction with the provisions of the South Dublin County Development Plan 2016-2022 with regard to the overall design and layout of the proposed scheme. The most relevant of these are 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2015' and 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) 2009'. Both Ministerial Guidelines advocate high quality sustainable

development that are well designed and built so as to integrate with the existing or new communities.

- 7.4.2. The principle of universal design is also advocated so as to ensure that the environment can be accessed, understood and used to the greatest extent possible by all people regardless of their age, size, ability or disability. The Design Manual which accompanies the Sustainable Residential Development Guidelines provide best practice design manual criteria such as context, connections, inclusivity, variety, efficiency, layout etc.
- 7.4.3. The proposal involves the change of use of an existing first floor and mezzanine of a two storey block to provide six no. apartments. The permitted use of the first floor under P.A.Reg.Ref.SD02A/0482 is as a restaurant, but this use has not been implemented on site and the unit has remained vacant.
- 7.4.4. Reason for refusal no. 1 by the planning authority raised concern in relation to specific design elements including the design and layout of the residential units, the provision of private and semi-private open space, and issues in relation to privacy and security. Permission was refused on the basis that the proposed development did not provide a quality residential environment for future occupants, and that the proposed development would seriously injure the amenities of future residents and of property in the vicinity.
- 7.4.5. The applicants in the grounds of appeal have proposed an alternative design and layout of the residential units, with a reduction in the number of units from 6 to 5.

Table 1: Unit Mix

<b>Unit Type</b>	<b>No. units - as lodged</b>	<b>No. of units – revised design</b>
1 bed	2	1
2 bed	4	4
<b>Total</b>	<b>6</b>	<b>5</b>

- 7.4.6. The updated guidelines state that a maximum of 12 apartments per floor per individual stair/lift core may be provided in apartment schemes. The first floor and

mezzanine are already served by a single stair/lift core and a separate stair core. The revised design providing for 5 apartments complies with this requirement.

- 7.4.7. With regard to the individual apartments themselves, as lodged they all exceeded the minimum floor areas. A revised schedule of floor areas was submitted with the revised design on appeal, which similarly exceed the requirements in terms of floor areas.
- 7.4.8. The revised design provides for dual aspect apartments with the exception of one of the two bed units which is single aspect. This unit benefits from a south facing orientation and as such I consider that such is acceptable in this instance. The layout and configuration of the units are functional and spacious. The units contain storage within the apartments themselves and a separate dedicated storage area within the mezzanine area which will enhance the overall residential functionality and amenity for future residents.
- 7.4.9. The generous floor areas of most of the units will provide flexibility for residents in terms of adaption/use of units and should ensure that units are occupied on a longer-term basis by residents.
- 7.4.10. I consider the proposed reduction in the number of units will help address some other requirements in terms of the provision of private and semi-private open space and concerns in respect to residential amenity are discussed in more detail below.
- 7.4.11. I am satisfied, therefore, that in terms of design and layout the revised proposals address issues raised in reason for refusal no.1 and are in accordance with Housing Policy H11.

## **7.5. Private, Semi-Private & Communal Open Space**

- 7.5.1. Reason for refusal no. 1 by the planning authority raised concern in relation to the provision of private and semi-private open space. The applicants in the grounds of appeal have proposed an alternative design and layout of the residential units as described above and associated private open space.
- 7.5.2. Private open space is provided by way of terrace or balcony area. Communal open space is provided by way of a terrace at first floor level at the western end of the block. I would note that in each case these areas are south facing.

- 7.5.3. In general, I am satisfied that adequate private and communal open space has been provided within the overall scheme. There is a large area of public open space to the north of Marfield Mall which is within walking distance of the site. I consider it reasonable that the proposed development would benefit from this existing amenity.
- 7.5.4. Having regard to all of the above, I am satisfied that the level of amenity being afforded to future occupiers of the proposed scheme is acceptable and the proposal if permitted would be an attractive place in which to reside.
- 7.5.5. I am satisfied, therefore, that in terms of open space the revised proposals address issues raised in reason for refusal no.1 and are in accordance with Housing Policy H13.

#### 7.6. **Residential Amenity**

- 7.6.1. The main concerns raised by the planning authority regarding residential amenity relate to the impact on neighbouring residential development and that of future occupants, and in particular pertain to privacy and security.
- 7.6.2. The proximity of the proposed apartments along the southern elevation of Block C to adjoining residential apartments located opposite, along Marfield Row is such that it would give rise to perceived overlooking.
- 7.6.3. I would note that the residential units on the upper floors of Marfield Row appear to include bedrooms on the northern elevations, with the main living areas to the rear on the southern elevation of the block. I also note the separation distances to the first floor elevation of Block C. A separation distance of 19m is indicated on Drawing no. 2017-111-ABP 202 from opposing above ground floor windows which is below that recommended in the County Development Plan.
- 7.6.4. The applicants have submitted revised proposals on appeal which indicate the use of vertical screens and planting to the private and communal areas of open space, which in my opinion will help to address issues of overlooking and privacy of the proposed units and associated private open space.
- 7.6.5. I also noted from my site visit and in the assessment by the planning authority the location and design of the existing roof canopy which cantilevers out over the southern elevation. The planning authority expressed concern in relation to

overshadowing of the units from this roof canopy, however I am satisfied that given the southern orientation of the units this is unlikely to be a significant issue. In my opinion the canopy will also provide an added level of privacy in terms of overlooking from residential units on upper floors of Marlfield Row.

- 7.6.6. In my opinion the occupancy of the upper floor of this block will serve to enhance and contribute to the vitality and viability of the local centre by helping to enhance passive surveillance and therefore the overall security of the area. This is particularly relevant given the nature of the ground floor use as a public house and associated off licence.
- 7.6.7. I would also note that no submissions were received by the planning authority in relation to the proposed development either from owners/operators of the ground floor unit or any of the residents of the adjoining residential units.
- 7.6.8. On balance, therefore, notwithstanding the separation distances to residential units located opposite, I am satisfied in this instance, in the context of the proposed units being located within an established local centre, and screening proposals submitted on appeal, that the issue of overlooking of the proposed units and associated private open space from existing residential within Marlfield Row, has been adequately addressed and provides an acceptable level of privacy.
- 7.6.9. I am satisfied, therefore, that the revised proposals will not negatively impact on the residential amenities of existing and proposed residential units and address issues raised in reason for refusal no.1 and are in accordance with Housing Policy H15.

## 7.7. Other Matters

- 7.7.1. *Noise* – I note concerns raised by the planning authority in relation to the impact of noise from the existing commercial uses at ground floor on the residential amenity of the proposed residential units at first floor. I also noted from my site inspection mid-morning on a weekday when the Café/Bar was not open, that it operates between the hours of 12.00pm to 23.30pm Monday to Wednesday, 12.00pm to 02.00am Thursday, 11.00am to 02.00am Friday, 12.30pm to 23.00pm Saturday and 12.30pm to 23.30pm Sunday. I also note the location and area of the outdoor partially enclosed seating area at ground floor level. It comprises an area of 102sqm and is

located on the southern side of the block, directly below the area of private open space serving four of the five units.

The applicant has indicated in the appeal that they are willing to accept a condition in relation to noise mitigation measures which may include the provision of triple glazed windows and sound proofing insulation. Given the late opening hours of the established commercial use at ground floor, I would recommend a condition be attached setting out that appropriate works be carried out prior to occupation of the units with details to be agreed with the planning authority.

I am satisfied that the mitigation measures proposed in the appeal in the provision of noise insulation measures will mitigate against noise from the associated ground floor use and are acceptable.

7.7.2. *Car Parking* – I note the location of a central surface car parking area, and existing basement car park and associated access arrangements. The applicant has indicated the provision of car parking spaces to serve the proposed development in the basement car park area. As already noted in section 1 above, a ramped access to the basement car park is from the north eastern corner of the surface car park with a pedestrian stairs and access from the car park to ground floor located next to the entrance door to the apartment units. This is considered acceptable.

7.7.3. *Waste Management* – The planning authority raised concerns in relation to waste management facilities given that no details were submitted with the application. Revised drawings submitted by the applicant on appeal indicate two bin storage areas of 8sqm and 15sqm respectively located at ground level. Each are located proximate to both pedestrian entrances and stair cores at either end of the block. I am satisfied that the location of both bin storage areas are appropriate. I would recommend that further details in relation to recycling be submitted and agreed in writing with the planning authority prior to the commencement of development.

## 7.8. **Appropriate Assessment**

7.8.1. Having regard to the nature and scale of the proposed development, being a minor residential extension in an established urban area, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely

to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. I recommend that permission be granted for the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, to the zoning of the site, and its location within a Local Centre in the South Dublin County Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would be acceptable in terms of traffic safety and convenience and would be in accordance with the provisions of both the South Dublin County Development Plan 2016-2022. The proposed development 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, as amended by the further plans and particulars submitted on the 9<sup>th</sup> day July 2019, 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 development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.  
**Reason:** In the interest of public health.
3. Details of screening and planting proposals to private and communal areas of open space shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented prior to occupation of the residential units.  
**Reason:** In the interest of residential amenity.
4. Details of noise mitigation measures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented prior to occupation of the residential units.  
**Reason:** In the interest of residential amenity.
5. The developer shall comply with all requirements of the planning authority in relation to lighting and parking arrangements, including facilities for the recharging of electric vehicles.  
**Reason:** In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.
6. Proposals for an apartment/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 street signs, and apartment/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
7. The management and maintenance of the proposed development,

following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the residential or commercial units are made available for occupation.

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

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

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

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in

the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Susan McHugh  
Planning Inspectorate

13<sup>th</sup> November 2019