



An  
Bord  
Pleanála

**Inspector's Report**  
**ABP 305207-19.**

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<b>Development</b>	Demolition of outbuildings, Construction of sixteen apartments in a four storey building at rear of site and a three storey, three-bedroom house, cycle and car parking, landscaping boundary treatment vehicular and pedestrian access and private and communal open space.
<b>Location</b>	Rear of "The Laurels", 54 Inchicore Road, Kilmainham, Dublin 8.
<b>Planning Authority</b>	Dublin City Council.
<b>P. A. Reg. Ref.</b>	2738/19.
<b>Applicant</b>	Cavelo Developments Ltd..
<b>Type of Application</b>	Permission.
<b>Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Inchicore Road Residents Group.
<b>Observer</b>	Joseph O'Carroll and Elizabeth Reddin.
<b>Date of Site Inspection</b>	2 <sup>nd</sup> December, 2019
<b>Inspector</b>	Jane Dennehy

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## 1.0 Site Location and Description

- 1.1. The site of the proposed development has a stated area of 1,426 square metres and is located in Kilmainham on the north side of the Dublin Cork Mainline railway track, Con Colbert Road and the Memorial Gardens and, to the west of Kilmainham Gaol on Inchicore Road. It is formed from lands at the rear of No. 54 Inchicore Road (“The Laurels”) and 56 Inchicore Road which are a semi-detached pair of Victorian houses which have front curtilages and entrances onto Inchicore Road to the south. Nineteenth century two storey over garden level terraced houses at Nos. 40 to No 52 Inchicore Road, (Spencer Terrace) are to the east side of the site. Two storey terraced houses are located on the opposite side of Inchicore Road. The northern boundary of the site adjoins the railway cutting and nineteenth century retaining wall supporting it which was dates from the nineteenth century. The ‘Chocolate Factory’ apartment development is to the north east.
- 1.2. Sheds and a detached garage, the total stated floor area of which is eighty-four square metres are located on the site and timber fencing is located at the rear of No 54 Inchicore Road which is subdivided into dwelling units. No 56 Inchicore Road is occupied by the Dublin Buddhist Centre the property of the Appellant Party. At the time of inspection, it was noted that part of the front boundary wall, gate pier and some trees at No 54 had been removed.
- 1.3. The carriageway has been narrowed on Inchicore Road providing for a single lane one-way system with a two-way cycle route on the north side of the carriageway adjacent to the footpath and intermittent parallel parking on the spaces on the north side where the kerb and footpath are setback behind a line of mature trees. Continuous parallel parking facilities are on the south side of the carriageway. A telegraph pole is located at the edge of the footpath beside one of the gate piers.

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority on 11<sup>th</sup> April, 2019 indicates proposals for:

Demolition of outbuildings which have a stated floor area of 74 square metres.

Construction of sixteen apartments in a four-storey building on the rear section of site comprising, 8 two bed units, 6 one bed units and 2 studio units and construction of a three storey, three-bedroom house. The total stated floor area of the proposed buildings is 1,275 square metres.

Cycle and car parking, private and communal open space and landscaping, boundary treatment, communal and private open space, balconies on the south elevation, vehicular and pedestrian access to Inchicore Road.

The stated plot ratio is 0.89 and the stated site coverage is 29.2 %

Included with the application are a design statement, and 3D images, a landscape rationale, Noise assessment and Vibration Assessments, Daylight Assessment, Engineering Assessments and a Construction management plan.

- 2.2. A request for additional information was issued on 7<sup>th</sup> June, 2019 in respect of recommendations in the Transport Planning Division's report, (*see section 4.1.2 below*) which a further information submission including a Transport and Traffic Report was lodged with the planning authority on 18<sup>th</sup> June, 2019.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

4.0 By order dated, 25<sup>th</sup> July, 2019, the planning authority decided to grant permission for the development subject to conditions which include the following requirements by condition:

Condition No 7 contains multiple requirements concerning boundary treatment, construction works, attenuation/water storage, noise assessment and management with regard to Iarnrod Eireann Infrastructure owing to the proximity of the adjacent Cork-Dublin Railway line to ascertain requirements which are to be adhered to in the development.

Condition No 8 contains requirements for implementation of the recommendations in the Acoustic Design Statement lodged with the planning authority

Condition No 10 is an archaeological monitoring condition.

Condition No 11 contains requirements relating to vehicular and cycle parking, specific requirements for adjustments to the entrance, providing for required corner radii dimensions, preparation of a construction management plan and, implementation of a residents' travel plan.

Condition 12 contains requirements relating to construction noise management.

Condition No 15 is a Bond condition.

#### 4.1. **Planning Authority Reports**

4.1.1. The initial **planning officer** report notes the precedent established through the prior grant of permission, (see section 5 below) development on adjoining lands and national strategic policy. It indicated recommendations, that take into account the

advice in the technical reports in respect of the proposed entrance arrangements and existing cyclist facilities, trip generation and residential travel planning. The final report, further to receipt of the further information submission indicated satisfaction with the proposed development.

- 4.1.2. The original report on **Transportation Planning Division** indicates concerns about impact of the use of the proposed entrance on the cycle way which is two way and notes the existing trees and lamp standard at the site frontage on the public road. A multiple item request for additional information to include revised proposals and accompanying drawings is recommended.
- 4.1.3. A supplementary report from the Transportation Planning Division was issued on 18<sup>th</sup> July, 2019: The revisions in further information submission of 18<sup>th</sup> June, 2019 the submission are stated to be acceptable, subject to inclusion of a condition for corner radii at the junction between the entrance and Inchicore Road to be reduced to accord with the Design Standard Manual for Urban Roads and Streets. (DMURS) Proposals for coloured surfacing of the cycle lanes outside the site boundary are considered unnecessary.

The submitted residential traffic plan with the proposals for promotion for public transport use cycling and walking and, appointment of a travel coordinate is stated to be acceptable. It is acknowledged that the on street pay and display facilities are heavily utilised.

It is stated that relaxation of the carparking standards (seventeen spaces) has been justified based on lack of parking need, availability of alternative transport modes and, proximity to LUAS and bus corridors and Heuston Station Submission of a residential travel plan for residents is recommended.

A set of conditions are attached for inclusion, if permission is granted.

- 4.1.4. The report of the **Engineering Department – Drainage Division** indicates no objection subject to the conditions which were attached to the grant of permission under P. A. Reg.Ref.2708/17.

#### 4.2. **Prescribed Bodies**

Iarnord Eireann in its submission dated 13<sup>th</sup> May 2019 provides a detailed itemised list of requirements which it is requested by addressed by condition if permission is granted, in the interest of the safety in operation of the railway.

#### 4.3. **Third Party Observations**

Objections indicated include concerns relating to unauthorised removal of trees, density and intensity, height, layout and open space provision, traffic, parking and facilities for services traffic and Part V commitments.

#### 5.0 **Planning History**

6.0 **P. A. Reg. Ref. 2708/17/PL 248834:** Further to third party appeals, the planning authority decision to grant permission was upheld for demolition of outbuildings and for construction of seven dwellings including a house adjacent to No 56 and eleven parking spaces and modified vehicular and pedestrian access.

**P. A. Reg. Ref: 1855/05:** Permission was granted for demolition of the garage and rear extensions at No 54 Inchicore Road and for change of use from Guesthouse to four apartment units, a three storey extension to the side with three apartments and a four storey extension to the rear with fourteen apartments, nineteen underground and two surface car parking spaces and widening of the existing entrance. (Details are not available.)

**P. A. Reg. Ref: 3841/01:** Permission was granted for alterations to the existing guesthouse at No 54 Inchicore Road and for a two storey and a single storey extension providing for fourteen apartments and eighteen under car spaces.

There is a record of prior applications for residential apartment developments entailing alterations to the existing house which was in use as a guesthouse and construction of extensions for which permission was refused according to the planning officer's report. (P. A. Reg. Refs: 2185/00, 3244/00, 3117/97, 0102/97 and 0718/91 refer.)

## 7.0 Policy Context

### 7.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site location is subject to the zoning objective: *Z1: To protect, provide and improve residential amenities.*

Development Management Standards for residential development are set out Chapter 16 with guidance and standards for infill developments set out in section 16.10.10. Objective QH 8 provides for higher density development which respects the character of surrounding development on vacant or under-utilised sites.

Section 16.10.9 (Corner/side garden site) Development, if it is of a high standard adds to existing building stock in serviced areas where there is a suitable large site and the development does not compromise the quality of the original house.

### 7.2. Strategic Guidance:

Relevant Development plan policies, objectives and standards are superseded by those within “*Urban and Building Heights: Guidelines for Planning Authorities*” (2018) and, “*Sustainable Urban Housing – Design Standards for New Apartments: Guidelines for Planning Authorities.*” (2018) The recommendations and standards within these strategic guidance documents were issued further to the National Planning Framework providing for sustainable consolidation and intensification of development as appropriate in serviced urban areas.

## 8.0 The Appeal

### 8.1. Grounds of Appeal

An appeal was lodged by the Inchicore Residents Group on 20<sup>th</sup> August, 2019 according to which:

- The proposed development would undermine and adversely affect the character of the of Inchicore Road, a historic, London plane tree-lined street with Kilmainham Gaol (a national monument) Courthouse and Congregational Chapel at No 60 Courthouse (protected structures) nineteenth century historic



buildings which include Nos 54-56 and the Spencer Terrace at Nos 40-52 (which are recorded in the NIAH inventory), houses and artisan cottages and, the public realm in the area. The trees, boundary walls and railings are an essential feature of the area. Two mature trees which are part of a continuous line will be removed from the footpath at the entrance location.

- Several very significant trees have been removed from the site which is contrary to section 16.3.3 of the CDP. At the minimum this habitat should be reinstated with mature tree stands even if it results in reduced density of development on the site.
- The proposed development contravenes Section 16.10.9 of the CDP (Corner site/garden sites) as it would compromise the quality of the existing pair of semi-detached nineteenth century houses.
- Ten car spaces are insufficient for servicing seventeen new dwellings and will result in demand for on street parking by the current residents. There is congestion and pressure as supply has already been compromised by the spaces which were removed from the street to facilitate the construction of the civic space at the Kilmainham Gaol.
- The impact of the height cannot be properly assessed because the height of the apartment block is not shown correctly in the contiguous elevation and section drawings.(Context Site Elevation 1-1 and PL -06)
- The proposal is overdevelopment for the site with an occupancy of up to forty-six persons. It has excessive density at 0.1426 per hectare equating to 119 units per hectare.
- The access route has been included in the calculation of the quantum of private open space. (177 square metres) This space would be traversed by services vehicles necessitating hardstanding.
- The development is contrary to Policy Objective G113 of the CDP due to lack of sufficient quantity and distribution of open space. The entrance route exceeds twenty metres in length. A full turning circle for a fire tender, (not a hammerhead) is required, TGD B) . To provide this would result in loss of on-site parking and quality open space.

- The development does not satisfy Section 4.11 of “*Urban Housing Design Standards for New Apartments*” for well-designed and maintained communal space with height and orientation of block allowing for adequate level of sunlight to amenity spaces. The space is long and narrow north facing strip with three metres high walls on three sides and a twelve metres high apartment block to the south. The daylight assessment report does not assess it, but it is shaded throughout year. The orientation layout and proximity of the railway line to the space is not conducive to well-designed communal amenity space as envisaged in the statutory Guidelines
- At least eight adjoining dwellings will suffer major adverse impact due to loss of daylight that is not compliant with the standards in *Site Layout Planning for Daylight and Sunlight* (Littlefair, BRE 2011 section 2.2.7) and assessment criteria No 16 and 17 in Appendix 1) The vertical sky component would be less than twenty-seven per cent and 0.8 times the former value with the development in place.
- The development is not compliant with the standards in *Site Layout Planning for Daylight and Sunlight* for minimum Average Daylight Factors Appendix C (Littlefair BRE 2011) and the recommendations in BS 8206-2 (*BS 8206-2:2008 Lighting for buildings. Code of practice for daylighting*) Also the north facing windows have not been assessed. This is contrary to Policy ObjectiveCC4 of the CDP for encouragement of maximisation of daylight in building design.
- The proposed development is contrary to Section 6.5 of ‘*Sustainable Urban Housing Guidelines Design Standards for New Apartments.*’ Policy Objective 16.10.4 Making Sustainable Neighbourhoods (for development over fifteen units) where a positive design approach contribution to the identify of an area and place making is required. The apartment mix in which fifty percent is one bed and fifty percent is two bed units does not contribute to sustainable communities. They lack universal design suitable for adaption to accommodate needs of older people and there is no indication of proposals for use of renewables.

- Traffic safety is at issue due to Inchicore Road being a single carriageway one-way street with two-way cycle path and parking on the south side and with few parking bays and many residents are reliant on parking permits. The public realm improvements had a knock-on effect further down the street where traffic accelerates and increases risk to cyclists. This risk to cyclists will be much greater with use of the entrance to the proposed development.

## 8.2. Applicant Response

A submission was received from the applicant's agent, John Spain Associates on 19<sup>th</sup> September, 2019 attached to which is a specific response to the appeal prepared by the daylight and sunlight consultants BPG3, a contiguous site elevation drawing and a sight lines drawing for the proposed entrance. There is a detailed account of the planning background, the current application and policy context. According to the submission there is a planning justification for the proposed development which is the outcome of an iterative process, having regard to national and local policy, the location, precedent by of a prior grant of permission at the site and at adjoining lands and the quality of the scheme proposed and its scale, design and height, the daylight and sunlight assessment prepared by BPG3 and the acceptability of the proposal to Irish Rail.

In response to the appeal it is submitted that:

- Sterilisation of the site based on the surrounding context is contrary to prevailing strategic policy and the accessibility of the location. This is acknowledged in the planning officer report. (An extract is provided.)
- The contentions in the appeal with regard to historic setting is not an accurate representation. There is an effective mix of buildings in the area and scope for new infill development within the existing urban area. The three-storey house which is in a contemporary design and which responds to the setting of Inchicore Road is the sole element of the proposed development visible from the public road.
- The contention in the appeal that the site is "mature grounds" is incorrect as it does not function as part of the curtilage of No 54 Inchicore Road, It is in separate ownership and is underutilised, overgrown space with outbuildings in a state of disrepair. The proposed development does not compromise the

curtilage of No 54 and is a carefully considered response to the context of the adjoining properties as an infill of appropriate density. The existing high-density development at The Chocolate Factory to the east should be taken into consideration.

- There is an adequate, high quality quantum of public open space at 177 square metres in area which is in excess of the minimum requirement and includes some circulation routes. The wheels of a services vehicle, swinging across landscaped space would not enter onto it. Furthermore, there is flexibility with regard to the ten percent square metres requirement set out in section 16.3.4 of the CDP where the site is too small or inappropriate, a financial contribution being acceptable in lieu.
- There is adequate, high quality, south facing private and north facing communal open space at 142 square metres in area which benefits from the aspect over the railway line and exceed the standards in the 2018 Apartment Guidelines.
- The removal of trees on the site took place, in consultation with Iarnrod Eireann and prior to lodgement of the application. In accordance with the requirement of Iarnrod Eireann, Condition 7 (h) of the decision excludes tree planting on the boundary with the railway line.
- The unit mix complies with the SPPR 1 of the 2018 Apartment Guidelines which supersedes CDP standards and SPPR 2 of the 2018 Apartment Guidelines allows for additional flexibility on dwelling mix on infill sites less than 0.15 hectares in area. The mix is an appropriate response and also addresses demographic and market demands.
- According to the accompanying submission of BPG3, contrary to the assertions in the appeal with regard to impact on eight dwellings, the proposed development substantially complies with BRE targets for vertical sky components for thirty five of the forty rooms assessed for impact on sunlight and daylight access. Of the five instances where VSC falls below the advisory targets daylight is over the minimum for new build in most cases and therefore internal daylight amenity level are retained.

- With regard to sunlight and daylight for open plan kitchen and living rooms a 1.5% target is utilised and is appropriate, There is a good rationale on an evidence based and reasoned statement for the north facing bedrooms as regards achievement of ADF targets recommended for north facing rooms being unwarranted. The areas of influence for assessment of rooms took in space classifiable as circulation space. The considerations for transmittance of light, opaque glazing being used in certain instances is justified in the assessment.
- The supplementary submission prepared by BPG 3 includes a response is provided for each of seven concerns raised in the appeal to include: an explanatory case for the departure from full adherence to advisory targets for VSCs recommended in BRE guidance; justification for some flexibility in the application of the higher 2% ADF for open plan kitchen and living rooms claim, assessment for ADF at north facing rooms, Area of influence of the calculations in the assessments, exclusion of glazing and glazing transmittance information and whether opaque glazing was taken into account, and adequacy of external sunlight amenity potential.
- The development is not overdevelopment or excessive in density and is sustainable urban infill on good transport routes. It is at the lower end of the indicative plot ratio and site coverage involving a modest number of units. There are no targets for maximum density in the CDP. The development suits the location in which there are high buildings and accords with the 2018 apartment and building height guidelines.
- Revised Drawing PL -07 shows the context elevation demonstrating the relationship between the proposed house and adjoining properties and demonstrate the appropriateness of the height of the apartment building. The lift overrun is also shown in the revised drawing. The location is in the inner city as defined in fig 39 of the CDP. which allows for heights to twenty-four metres whereas the height of the proposed development is 12.3 metres and this height has been carefully considered in the context of the surroundings.

- The units are adaptable for mobility impaired and are highly accessible, for parking, entrances and lifts which are suitable for wheelchair users.
- With regard to traffic and transport issues raised in the appeal, the response prepared by the applicants consulting engineers (2HQ) included with the submission indicates reiteration of the claim that there is no increased risk to cyclist safety. References are made to the road safety audit which was reviewed and references to the RSA collision database in which no cyclist incidents are shown as having been recorded for 2005-2016. It is reiterated that, as shown on drawing P010 it is demonstrated that adequate sight lines with existing trees in situ are achieved to the entrance and the access accords with the DMURS standards and with the National Cycle Manual. Therefore, there is no increase in risk to cyclists on Inchicore Road. Mitigation, based on DMURS guidance and standards including implementation of signage and surface treatments a raised pedestrian platform, stop signage and warning signs, low level boundary treatment with improvements to the visibility of cyclists on the cycle track . The proposed access and egress arrangements are similar to those for which permission was previously granted. The TRICS database indicating two-way totals of 4 trips in the am peak and 3 two-way trips in the pm peak is similar to existing patterns notwithstanding the proposed intensification of use of the site.

### 8.3. Planning Authority Response

There is no submission on file from the planning authority

### 8.4. Observations

A submission was received from Mr O'Carroll and Ms Reddin of No 52 Inchicore Road on their own behalf on 2<sup>nd</sup> September, 2019. In their submission they express serious concern as to:

- disregard for local communities' interests and erosion of policy formed by elected members on behalf of communities by national policy as reflected in statutory guidelines that now supersede development plan police and standards. Local input is ignored and disregarded, and this is demonstrated in permitted development many examples of which are provided. The proposed

development meets few, if any of the criteria, within statutory guidance, extracts from which are reproduced in the submission.

- Adverse impact on No 52 Inchicore Road, the observer party's property which faces south with the rear and rear garden facing north. Overshadowing would be exacerbated, overlooking of the house and garden from the balconies and windows would occur and artificial light would affect the rear garden, and noise would come from traffic. These impacts would also affect the existing dwellings at No 54 Inchicore Road.
- Building to the front of No 52 Inchicore Road is inexplicable and unacceptable as are the design and render finish and flat roof.
- Reference is also made in the submission to contentions as to the felling of over thirty mature trees which formed part of continuous mature planting on the Inchicore road creating a natural corridor. on the site which has been investigated by the City Council.

#### 8.5. Further Responses (Appellant)

A further submission was received from the appellant on 15th October, 2019, in which it is claimed that the applicant has not responded to the concerns raised in the appeal. It is submitted that:

- There is reliance on the planning history and failure to accord with section 16.10.9 of the CDP (Comer/side garden sites.)
- Instead of retaining Inchicore Road free of new development, the appellant welcomes high quality development that positively contributes to the area.
- With regard to communal and public open space the developer should not regard the proposal as infill on a brownfield site to justify the development as it is an apartment building on a garden of a historic house. It is overdevelopment on a restricted site due to the footprint and size.
- The design does not accommodate residents with mobility issues., 30% of which should incorporate universal design principles according to *Housing Options for Ageing Population Policy* statement issued by the DHPLG nor has suitability for adaptation in the future been provided.

- There is no evidence of incorporation of renewables in the design.
- Drawing P101 (2HQ consulting engineers) demonstrates obstruction of sightlines by mature trees on both sides of the proposed access road. This is a risk to road users. Removal of trees would not be acceptable.

## 9.0 Assessment

- 9.1. The application is a revised proposal, providing for eighteen apartments in a four-storey block and a house, there being an extant grant of permission for a lower density seven-unit residential development on the site. This current, higher density proposal is stated in the applicant's submission prompted as a response to national policy and recent statutory guidance, *Sustainable Urban Housing Design Standards for New Apartments*, 2018. (The Apartment Guidelines 2018) which supersedes development plan standards.
- 9.2. The overall issue, over which there is disagreement between the applicant and third parties is as to whether the current proposal can be accepted having regard to compatibility as an infill with the historic architectural character and existing buildings, the urban form, residential amenities of existing properties, qualitative standards of the proposed dwellings and public and private open space and landscaping, traffic convenience and public safety, particularly with regard to the cycle track. The issues raised in the appeal and central to the determination of a decision can therefore be considered below under the following broad sub-categories:

Density and intensity

Apartment Units – Qualitative standards.

Public, Communal and private open space provision

Tree Removal

Impact on Visual amenities and Architectural Characteristics of the Area.

Impact on the Residential Amenities of adjoining properties.

Vehicular and pedestrian safety and convenience.



Dublin Cork Mainline Rail Iarnrod Eireann Infrastructure.

Environmental impact assessment.

Appropriate Assessment.

### 9.3. **Density and Intensity.**

The development is a medium to high density infill development on a site of reasonable size within the inner suburbs in a historic area and, with a site coverage of 29 percent and plot ratio of 0.89 it comes within the indicative ranges provided for in the CDP. The location also satisfies all criteria having regard to the location, such as proximity to transport corridors and infrastructure and facilities.

The dwelling mix as indicated in the planning officer report is considered reasonable for the location and is in accordance with the guidance and recommendations within the Specific Planning Policy Requirements SPPR 1 and 2.

### 9.4. **Apartment Units – Qualitative standards.**

There is no dispute with the statement in the planning officer report that the proposed development is consistent with The Apartment Guidelines (2018) having regard to Specific Planning Policy Requirements (SPPR 1 and 2).

While minor shortfalls have been identified with regard to light penetration having regard to Average Daylight Factor (ADF) calculations and as to Vertical Sky Component (VSC) at some rooms, it is considered that a satisfactory explanation and case is made in the submission made in connection with the appeal on behalf of the applicant and in the assessments by the planning officer. It is also reasonable that some discretionary flexibility is justified in application of BSC standards and it is agreed that the proposed development, in this regard, would not result in substandard development.

### 9.5. **Public, Communal and private open space provision.**

On balance, when the overall provision in the scheme is considered collectively, the south facing space the stated area of which is 177 square metres, designated as 'open' in conjunction with the space to the north side of the apartment block the stated area of which is 142 square metres and which is designated as 'communal' the external amenity potential of the scheme is considered to be of an adequate standard. Furthermore, the range and extent of public amenities within the vicinity, not least the War Memorial Gardens benefits the development. The extent to which a refuse vehicle when turning, might overlap over the landscaped area and circulation space as shown in the landscape plan are not a significant concern. Qualitatively and quantitatively the space provision and hard and soft landscaping details are considered acceptable for the development.

#### **9.6. Tree Removal**

With regard to the contentions as to unauthorised tree removal at the site raised in the third-party submissions, it is noted the matter falls within the provisions for the planning authority's enforcement remit. As stated above it has been demonstrated that the trees outside the site frontage are unaffected and do not conflict with the proposed entrance arrangements.

#### **9.7. Impact on Visual amenities and Architectural Characteristics of the Area.**

The four-storey block, in principle, is suited for a serviced inner suburban area and there is no conflict with the policies, standards and recommendations in, *Urban and Building Heights: Guidelines for Planning Authorities*" (2018). The height and mass in conjunction with the relatively simple design, muted external finishes and fenestration and balcony detail and the deep setback of the footprint into the site are of note in this regard. The proposal is for a low-key block in the context of the adjoining and surrounding contemporary and historic architectural character and buildings in the area including the Chocolate Factory development to the east.

The new building to be located adjacent to No 52 Inchicore Road, while not considered of exceptional merit in design and form can, having particular regard to the parapet line and relatively muted finishes be accepted into the established historic context. It integrates as a contemporary block with the proposed apartment block as

part of the overall infill development on the site adjacent at the rear to The Chocolate Factory.

**9.8. Impact on the Residential Amenities of adjoining properties.**

It is considered that by reason of the separation distances, footprint and orientation the proposed apartment block would not give rise to substandard development or undue overlooking or overshadowing of adjoining properties. In this regard, given the location it is agreed with the planning officer that the twenty -two metres separation distance normally applicable for two storey developments is sufficient with regard to the apartment block.

**9.9. Vehicular and pedestrian safety and convenience.**

With regard to the proposed entrance arrangements and the existing cycle lanes providing for two-way cycling, the revised design proposals shown on drawing P009 in the further information submission are considered satisfactory in respect of sightlines in each direction, selection of surface materials, road markings and signage. It is noted that the supplementary report of the Transportation Division indicates confirmation that it considers that it is satisfactorily demonstrated in the further information submission that these modifications to the existing entrance, which accord with DMURS standards, with the exception of turning radii size which can be reduced by condition results in no adverse impact for existing trees and lamp standards on the public footpath.

9.10. Notwithstanding the increase, relative to the existing and permitted development in density of the development, it is considered that is shown in the TRICS analysis that predicted turning movements into and out of the development are relatively insignificant and would not lead to undue interference with the safety and free flow of cyclist and vehicular traffic and pedestrian safety would not be at issue. Vehicular and cycle parking arrangements proposed are also satisfactory. It is considered that it has been demonstrated that the proposed development is acceptable having regard to vehicular and pedestrian safety and convenience. The proposal would not endanger public safety due to traffic hazard or obstruction of other road users.

**9.11. Dublin Cork Mainline Rail Iarnrod Eireann Infrastructure.**

The report of Irish Rail and details of the applicant's proposals which are comprehensively outlined in the application and submission in response to the appeal are indicative of satisfactory arrangements between the parties in accordance with a condition subject to compliance with the requirements of Irish Rail, if permission is granted.

#### **9.12. Environmental Impact Assessment Screening.**

Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

#### **9.13. Appropriate Assessment**

Having regard to the planning history for the site, the zoning objective, the inner-city location of the site which is on serviced land, to the existing development on the site and in the vicinity and, to the nature and scale of the proposed development which is to be connected to the public storm-water and foul drainage systems serving the area and incorporating appropriate SUDS arrangements no appropriate assessment issues arise, the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### **10.0 Recommendation**

In view of the forgoing it is recommended that the planning authority decision to grant permission be upheld and that the appeal be rejected.

#### **11.0 Reasons and Considerations**

Having regard to the zoning objective *Z1: "To protect, provide and improve residential amenities"* for the site, as set out in the Dublin City Development Plan 2016 to 2022, to the design and layout of the proposed development and the established architectural character and pattern of development in the area, it is

considered that, subject to compliance with the conditions set out below, the proposed development, would not constitute overdevelopment and provides a satisfactory quantum and quality of open, communal and private space provision, would not give rise to undue overlooking would not seriously injure the residential and visual amenities of the existing development in the vicinity, or the setting of protected structures or historic architecture on Inchicore Road, would, by means of satisfactory vehicular access and egress arrangements, be acceptable in terms of pedestrian and traffic safety and convenience, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 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 28th June 2019 and by the further plans and particulars received by An Bord Pleanála on 19<sup>th</sup> September 2019 except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

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

2. The following requirements of Iarnród Éireann Infrastructure shall be strictly adhered to in accordance with the requirements of the planning authority:
  - a) The Railway Safety Act 2005 places an obligation on all persons carrying out any works on or near the railway to ensure that there is no increase in risk to the railway as a consequence of these works. Because of the proximity of the site to the Railway, the Developer must take into account this obligation in Design, Construction and Operation of the scheme.

- b) Due to proximity of the Dublin/Cork railway line, a 2.4m high suitable designed, fence (concrete upstand with steel fence as agreed with the developer on site) boundary treatment, should be erected by the applicant on the applicants' side of the boundary.
- c) The maintenance of this boundary treatment rests with the Applicant and his Successor-in-Title. The exact location and details of this boundary treatment is to be identified on site in co-operation Iarnrod Eireann.
- d) That provision be made for maintaining the security of the railway boundary during the course of the works and the boundary treatment should be completed before any major development works begin on site.
- e) No building shall be constructed within 4m of the Boundary Treatment on the applicants' side. This is to allow for the applicant to maintain his / her building, without the need to enter Iarnrod Eireann property.
- f) The developer may not undermine the integrity of the embankment / cutting which runs to the north of the development. Iarnrod Eireann has an obligation to maintain these cuttings /embankments.
- g) Should the development require the use of a crane that could swing over the railway property, then the developer must enter into an agreement with Iarnrod Eireann / C.I.E. regarding this issue.
- h) No trees are to be planted directly along the railway boundary as they can impair the vision of train drivers or their views of signals, etc. Furthermore, falling leaves and / or leaf litter on rails can adversely affect the operation of trains by causing poor wheel / rail adhesion.
- i) Lights from the proposed development, either during the construction phase or when the development is completed, should not cause glare or in any way impair the vision of train driver or personnel operating on track machines.

- j) Should the applicant intend to cut down trees that are in proximity of the railway line such that if they were to fall towards the line they would block it, you must arrange with the Infrastructure Manager, Iarnród Éireann, for a safe system of work to be established to undertake this work, preferable at night during night time possessions.
- k) The applicant should be made aware of the normal vibrations and noise emanating from railway operations and maintenance. These developments including the boundary treatment should be so designed to withstand such vibrations and noise. Applicants in this regard should be aware that the railway has the capacity to operate 24 hours a day, 7 days a week.
- l) For development of residential units in areas adjoining the railway corridor, The Applicant and / or his agents should conduct quantified noise assessment to ensure noise levels at the proposed residential units do not equal or exceed undesirable noise levels, as specified in the Local Authority's Noise Action Plan. It shall be responsibility of The Applicant and / or his agent to specify necessary mitigation measures where specified noise levels are exceeded. The noise assessment should consider a number of scenarios when predicting noise levels, including the following:
- i. within development with windows closed;
  - ii. within development with open windows; and
  - iii. exterior of development within private or communal gardens.
- m) Given that the railway is maintained and operated 24 hours a day 7 days a week, the Developer should be required, via sales literature, to inform the future purchasers and/or tenants where applicable of residential units within the development of the noise and vibration that might be expected due to such railway operations and maintenance.

- n) No additional liquid, either surface water or effluent shall be discharged to, or allow to seep onto, the railway property or into railway drains / ditches. The published drawings detail a 350m<sup>2</sup> attenuation stone layer of 0.8m thickness accommodating 78m<sup>3</sup> of water. This water will then be released into the existing surface water connection. Iarnród Éireann are in favour of this option rather than a soakaway. The railway immediately adjacent to the site is in a cutting some 8m below the level of the Applicant's property. Our concern is that much of the drainage off the new hard surfaces proposed in this development will run onto railway property thus saturating the embankment and increasing the surcharge loading on the masonry retaining wall at the toe. Drainage from adjacent developments (including soakaways) is one of the primary causes of landslips on the railway and pose a real and substantial risk to railway safety.
- o) The Applicant should be required to provide adequate drainage to all hard surfaces and to discharge all water via an attenuation tank into the storm water/public sewage system.

**Reason:** In the interests of protecting Iarnród Éireann assets.

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

**Reason:** In the interest of visual amenity.

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

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



5. The applicant or developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

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

6. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:-
  - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - (b) employ a suitably-qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

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

A report containing the results of the assessment shall be submitted to the planning authority with any application for permission consequent on this grant of outline permission. Details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to the commencement of construction work, shall be determined at permission consequent stage.

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

7. All recommendations of the Acoustic Design Strategy/Statement submitted to the planning authority on 26th February 2019 shall be implemented to the satisfaction of the Planning Authority.

**Reason:** In the interest of residential amenity.

8. During the construction phase, the proposed development shall comply with British Standard 5228 Noise Control on Construction and open sites Part 1. Code of practice for basic information and procedures for noise control.

**Reason:** In order to ensure a satisfactory standard of development, in the interests of residential amenity.

9. The site and building works required to implement the development shall only be carried out between the hours  
:Mondays to Fridays - 7.00am to 6.00pm.  
Saturday - 8.00 a.m. to 2.00pm.  
Sundays and Public Holidays - No activity on site.

Deviation from these times will only be allowed in exceptional circumstances where prior written agreement has been received from Dublin City Council. Such approval may be given subject to conditions pertaining to the particular circumstances.

**Reason:** In the interest of residential amenity.

10. The areas of public and communal open space shown on the lodged plans, shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

**Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

11. The internal road network serving the development, including the vehicular access from Inchicore Road, parking areas, footpaths and kerbs, shall comply with the requirements of the planning authority for such works and services which shall include the following:

The on-site carparking spaces shall not be sold or leased separately to the development.

The cycle parking facilities which shall be sheltered shall accord with development plan standards and shall be in place prior to occupation of the development.

The entrance arrangements and alterations to the public footpath and surface materials shall accord with the proposals submitted to the planning authority on 19<sup>th</sup> September, 2019 and the recommendations within "*Design Manual for Urban Roads and Streets*" (DMURS) providing for cyclist and pedestrian priority. (The red epoxy resin finish for the cycle lands shall be omitted.)

The residential travel plan submitted to the planning authority on 28<sup>th</sup> June, 2019 shall be fully implemented under the direction of a Mobility Manager.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

10. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

11. Proposals for a name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. No advertisements or marketing signage shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility.

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

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

13. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

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

14. 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.

15. 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.

16. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

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

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

18. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and

been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

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

**Reason:** To ensure the satisfactory completion of the development.

21. 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.

**Jane Dennehy**  
Senior Planning Inspector  
30<sup>th</sup> December, 2019