



An
Bord
Pleanála

Inspector's Report

ABP-305777-19

Development	Demolition of 5-storey office/residential building on site and the construction of 62 apartments on 11 floors
Location	Jefferson House, 2, Eglinton Road, Donnybrook, Dublin 4
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	3717/19
Applicant(s)	Silver Bloom Limited
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Silver Bloom Limited
Observer(s)	Eglinton Residents Association Deirdre & Irial Finan Anne Fitzgerald Donal & Frances Costigan

Date of Site Inspection

04/02/2020

Inspector

Gillian Kane

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1.0 Site Location and Description

- 1.1.1. The subject site is located on the southern side of Eglinton Road, at the junction of Donnybrook Road, in the south Dublin suburb of Donnybrook. Currently on site is a 5-storey red-brick office building.
- 1.1.2. The site is bound to the south-east by the River Dodder, to the north-west by the two-storey houses on Eglinton Road, to the north-east by Donnybrook Road and Angelsea Bridge. Donnybrook Road is a wide, major traffic route from the N11 into the city centre. It accommodates a number of lanes, including bus and cycle.
- 1.1.3. To the south and east of the site are the protected structures Donnybrook Church and the Donnybrook Bus Garage. To the north is Old Wesley rugby grounds and the commercial strip of Donnybrook village.

2.0 Proposed Development

- 2.1.1. On the 9th August 2019, planning permission was sought for the demolition of the existing 5-storey Jefferson House and the construction of an 11-storey over basement residential building of 62 no. apartments, 20 no. car parking spaces, 94 no bicycle spaces.
- 2.1.2. Details provided in the site plan are:
 - Site area: 1,128.5sq.m.
 - Proposed area of demolition: 2,910sq.m.
 - Proposed new build: 5,571.5sq.m.
 - Proposed plot ratio: 5.1
 - Proposed site coverage 56%

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 1st October 2019, the Planning Authority issued a notification of their intention to REFUSE permission for the following reason:

- 1 The proposed development would constitute over development of the site by virtue of its height, scale and massing and would result in an unacceptable negative visual impact on this prominent site within an designated Conservation Area. The proposal would be seriously injurious to the

residential amenity of adjoining properties in terms of the overbearing impact and the potential for overlooking from the terraces on the upper levels and, as such would depreciate the value 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. **City Archaeologist:** 3 no. conditions recommended in the event of a grant of permission.
- 3.2.2. **Drainage Division:** Revised Flood Risk Assessment required.
- 3.2.3. **Transportation:** Two items of further information required – clarification of bicycle parking at basement level and visitor bicycle at ground level.
- 3.2.4. **Planning Report:** Proposed demolition is acceptable as existing building is no longer fit for purpose and re-use would be a more efficient use of Z1 zoned land. A number of the units do not meet required storage or dual aspect requirements. Daylight could be restricted to some of the unit balconies, some concern regarding daylight within units. Communal open space could be improved. Ecological review of the proposed construction phase required. Plot ratio is excessive. No explanation or justification for height. Mass is excessive, presentation is disjointed at street level, gable elevation to Eglinton Road is problematic, would result in overlooking. Overall building is not an appropriate response to the site. Recommendation that permission be refused.

3.3. **Third Party Observations**

- 3.3.1. Objections to the proposed development raised the issues of height, the proposed building being overbearing and causing overlooking & overshadowing, not respecting residential amenity, over development of the site, traffic on the adjoining N11, environmental impact on and flooding of the River Dodder, the intensification of the Donnybrook area, precedent, negative impacts from construction, excessive density, archaeological impact, visual impacts, impact on conservation area.

4.0 **Planning History**

- 4.1.1. None on file for the subject site.

4.1.2. On the adjoining site to the north: **ABP-303708-19**: Planning permission granted for 94 no. apartments on a site comprised of 1,3,5,7,9 and 11 Eglinton Road.

5.0 Policy Context

5.1. Project Ireland 2040: National Planning Framework

- 5.1.1. This national policy seeks to support the future growth and success of Dublin as Irelands leading global city of scale, by better managing Dublin's growth to ensure that more of it can be accommodated within and close to the city. Enabling significant population and jobs growth in the Dublin metropolitan area, together with better management of the trend towards overspill into surrounding counties.
- 5.1.2. The NPF recognises that at a metropolitan scale, this will require focus on a number of large regeneration and redevelopment projects, particularly with regard to underutilised land within the canals and the M50 ring and a more compact urban form, facilitated through well designed higher density development.
- 5.1.3. Of relevance to the subject application are the following:
- **National Policy Objective 2a**: A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs
 - **National Policy Objective 5**: Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.
 - **National Policy Objective 6**: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.

5.2. Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018

- 5.2.1. Reflecting the National Planning Framework strategic outcomes in relation to compact urban growth, the Government considers that there is significant scope to accommodate anticipated population growth and development needs, whether for

housing, employment or other purposes, by building up and consolidating the development of our existing urban areas.

- 5.2.2. The first of the 10 National Strategic Outcomes in the National Planning Framework that the Government is seeking to secure relates to compact urban growth. Securing compact and sustainable urban growth means focusing on reusing previously developed 'brownfield' land, building up infill sites and either reusing or redeveloping existing sites and buildings, in well serviced urban locations, particularly those served by good public transport and supporting services, including employment opportunities.
- 5.2.3. While achieving higher density does not automatically and constantly imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban locations where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include the positive disposition towards appropriate assessment criteria that will enable proper consideration of development proposals for increased building height linked to the achievement of a greater density of development.
- 5.2.4. **SPPR1:** In accordance with Government policy to support increased building height in locations with good public transport accessibility, particularly town / city cores, planning authorities shall explicitly identify, through their statutory plans, areas where increased building height will be actively pursued for both redevelopment and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.
- 5.2.5. **SPPR3:** Minimum Apartment Floor Areas:
- Studio apartment (1 person) 37 sq.m
 - 1-bedroom apartment (2 persons) 45 sq.m
 - 2-bedroom apartment (4 persons) 73 sq.m
 - 3-bedroom apartment (5 persons) 90 sq.m

5.2.6. **National Policy Objective 5:** Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.

5.2.7. **Dublin City Development Plan 2016-2022**

5.2.8. The subject site is zoned Z1, Sustainable Residential Neighbourhoods, which has the stated objective 'to protect, provide and improve residential amenities'.

5.2.9. Indicative site coverage is 45-60% for lands zoned Z1 and indicative plot ratio for is 0.5 – 2.

5.2.10. The site is also located within a Zone of Archaeological Interest and also within the Zone of Archaeological Constraint for the Recorded Monument DU018-060 (Donnybrook/Ballsbridge Settlement), which is subject to statutory protection under Section 12 of the National Monuments (Amendment) Act 1994.

5.2.11. The site is also located within the River Dodder Conservation Area.

5.2.12. Policies of relevance include:

QH1: To have regard to the DEHLG Guidelines on 'Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities' (2007), 'Delivering Homes Sustaining Communities – Statement on Housing Policy' (2007), 'Sustainable Urban Housing: Design Standards for New Apartments' (2015) and 'Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual: A Best Practice Guide' (2009).

QH6: To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities, and which are socially mixed in order to achieve a socially inclusive city.

QH7: To promote residential development at sustainable urban densities throughout the city in accordance with the core strategy, having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

QH18: To promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social

infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.

QH23: To discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land.

CHC4: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible. Enhancement opportunities may include:

1. Replacement or improvement of any building, feature or element which detracts from the character of the area or its setting
2. Re-instatement of missing architectural detail or other important features
3. Improvement of open spaces and the wider public realm, and re-instatement of historic routes and characteristic plot patterns
4. Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area
5. The repair and retention of shop- and pub-fronts of architectural interest.

Development will not:

1. Harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area
2. Involve the loss of traditional, historic or important building forms, features, and detailing including roofscapes, shopfronts, doors, windows and other decorative detail
3. Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors
4. Harm the setting of a Conservation Area
5. Constitute a visually obtrusive or dominant form.

Changes of use will be acceptable where, in compliance with the zoning objective, they make a positive contribution to the character, function and appearance of Conservation Areas and their settings. The Council will consider the contribution of existing uses to the special interest of an area when assessing change of use

applications and will promote compatible uses which ensure future long-term viability.

5.3. Natural Heritage Designations

- 5.3.1. South Dublin Bay SAC (site code 00210) is located 1.8km east of the site and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) is located 1.8km east of the site.

5.4. EIA Screening

- 5.4.1. Having regard to nature and scale of the development and the built-up urban location of the site 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

An agent for the applicant has submitted a first party appeal against the decision of the Planning Authority to refuse permission. The appeal submission provides details of the national policy mandate for the proposed development and the background to the first party appeal – namely the pre-planning process. It is submitted that extensive pre-planning was undertaken and that the concerns of the Planning Authority could have been addressed by way of further information.

- 6.1.1. The appeal submission is accompanied by
- Landscape & Visual Assessment,
 - Engineering Report,
 - Assessment of Impact on Protected Structures,
 - Letter explaining the Sunlight & Daylight Report
 - Revised Basement Plan
 - Design Response Document

6.1.2. The grounds of the appeal can be summarised as follows:

High Quality Development

- All units within the scheme exceed the quantitative standards of national planning policy.
- The Planning Authority's query regarding the dual aspect nature of Unit types 1 and 2 could be resolved by the addition of a high-level window in apartment 1. Apartment 2 is already dual aspect with no vertical obstruction. Units 1 and 2 are south-facing overlooking high-amenity and therefore do not need to be dual aspect.
- Unit type 2 are not dual aspect but as they are south-east facing and overlook high amenity space, dual aspect is not required.
- All 3-bed units are dual aspect. All north-facing units are dual aspect. The achievement of 89% dual aspect units on a brownfield infill site is indicative of the high level of residential amenity therein.
- The submitted Sunlight & Daylight assessment was carried out by specialists, in accordance with BRE Guidance. The analysis shows that 20 of the 32 rooms adhere to guidelines. Of the three rooms that do not comply, two are bedrooms that have direct access to private amenity space and within apartments with ADF levels of more than 3%. The third room fails the 1.5% ADF test by very little, with 1.46% ADF. If the winter gardens are included average daylight levels will greatly exceed BRE guidelines.
- 47% of rooms comply with annual probable sunlight hours (APSH) and 93% of rooms comply with winter sunlight guidelines.
- The scheme is well served by access to daylight and sunlight in an urban context.
- Open space is provided in the form of a communal area bounding the River Dodder and on the 4th, 8th and 9th floors. The Design Report submitted addresses the Planning Authority's concerns regarding overlooking from the 4th and 9th floor terraces.
- The proposed development improves the existing situation with enhanced vibrancy, better permeability and better-quality streetscape. Should the Board

consider it necessary, the applicant is happy to accept a financial condition in lieu of open space provision.

- All technical compliance requirements are addressed, as shown by the submitted statement by the Consulting Engineers.

Residential Amenity

- The proposed development is not injurious to the residential amenity and will not depreciate the value of property in the vicinity.
- The proposed development improves shadow conditions on the neighbouring property, notwithstanding the increased height. This was not considered by the Planning Authority.
- The existing building has a very overbearing presence on the neighbouring dwellings on Eglinton Road, due to the bulk and massing of the building. The proposed development has been designed to reduce the impact on nos 4 and 6 Eglinton Road, reducing the scale of development proximate to the neighbouring boundary.
- The existing building directly overlooks no. 4 Eglinton Road. It is possible to see into the house from the roof terraces. In contrast, the replacement building restores privacy to the neighbour with all low-level windows orientated away from no. 4. From the windows of apartment types 2 and 6 a small corner of the garden of no. 4 is visible.
- Communal terraces at upper levels can be screened to avoid overlooking.

Design Proposal

- The River Dodder Conservation Area runs the length of the Dodder. While the subject site is in a prominent location, the existing building makes a poor contribution to the area. The proposed development represents a planning gain.
- The proposed development accords with policy CHC4 of the development plan, being the replacement of a building that detracts from the area and being contemporary architecture of exceptional design quality. The proposed design considers the protected structures at Donnybrook Church and Donnybrook Bus garage. Appeal submission is accompanied by a Conservation Architecture report.

- It is submitted that the Planning Authority decided to refuse permission on a misguided conclusion regarding residential amenity. The height, scale and massing of the proposed building are the result of a considered approach to the site and the surrounds.
- The LVIA submitted with the appeal demonstrates that the proposed development will be a significant and positive change to the existing streetscape and visual character of the area, mitigated by the retention of screening along the Dodder. The massing of the proposed building is lower than the existing, stepping up to 11 storeys at the northern side only. The proposed building is of a higher quality design and integrates well with the permitted development on the northern side of Eglinton Road (reg. ref. 3047/18). The traffic plaza is an appropriate setting for a gateway building as proposed.
- The Planning Report submitted with the application justified the height of the proposed building. The proposed development complies with the Urban Development and Building Height Guidelines for Planning Authorities and the key SPPR's. The subject site being proximate to a public transport corridor is an appropriate location for increased height and densities.
- At its highest point, the proposed building is 10m higher than the existing building, yet there is no increased negative impact. A 26m high development has been granted directly opposite the subject site. These will create an efficiently designed and well serviced community at Donnybrook Village.
- The new Jefferson House will mark a gateway to Donnybrook, a key node of the River Dodder and at a confluence of significant junctions on the arterial city route.
- The Board is requested to grant permission.

6.2. **Planning Authority Response**

- 6.2.1. None on file.

6.3. **Observations**

6.3.1. **Cllr. Dermot Lacey**

- Wishes to support the observation made by the Eglinton Residents Association
- Requests the Board to refuse permission

6.3.2. Eglinton Residents Association

- In the absence of a masterplan for the Donnybrook area, the granting of permissions driven by Section 28 Guidelines will result in the destruction of the area.
- The height, mass, density and unsympathetic form of development is entirely contrary to the area.
- The Residents Association is not anti-development but the proposed development with a density of 556 units per ha and a plot ratio of 1.77 is excessive.
- The proposed density is not suitable for a suburb. The highest density in the area is 231 units per ha. The proposed development represents a density three times that of Manhattan.
- The appeal has not addressed the issue of over-development. The Residents Association disagree with the appellants assessment of compliance with the Urban Design manual criteria.
- The only transport within walking distance of the subject site is an overcrowded QBC. The 1.8km to the dart and 1.4km distance to the tram are too far to be relevant.
- The page 25 illustration is not accurate as the proposed building would not allow the retention of the existing tree.
- The Board should not consider adjoining sites when assessing the subject proposal.
- The Board is requested to refuse permission.

6.3.3. Deirdre & Irial Finan, 65 Eglinton Road

- The proposed 11-storey building is at odds with the character of the road.
- The proposed development and that permitted on the adjoining site would create a tunnel effect.
- The proposed density of 556 units per ha would not be accepted in any European city.

- The proposed development will cause long-term traffic delays, at a junction that already grinds to a halt daily.
- The likelihood of damage to the bridge is high.
- The Board is requested to refuse permission.

6.3.4. **Anne Fitzgerald, 84 Eglinton Road**

- In the absence of a masterplan for the Donnybrook area, the granting of permissions driven by Section 28 Guidelines will result in the destruction of the area.
- The height, mass, density and form of the proposed development is out of character with the area, a designated Conservation Area.
- Traffic in the area is already congested. Public transport is inadequate.
- The housing crisis has subsided and a longer-term view needs to be considered.

6.3.5. **Donal & Frances Costigan, Harmony Avenue**

- The Board is requested to refuse permission for the proposed development.
- The massive scale and plot ratio threaten the visual amenity of the area. These concerns are magnified by the 7/8 storey development granted on the northern side of Eglinton Road.
- The appellants attempt to style the proposed development as an improvement on the existing building is spurious. The existing building is ugly but it has a smaller site coverage.
- A better step-down to no. 4 pales into insignificance when compared to the impact of the 11-storey on the community at large.
- The applicant has not designed a pick-up / drop-off area as recommended by the Transportation department.
- Unpredictable access to on-street disc parking, insufficient parking and stopping close to the entrance would create traffic hazards.
- The final assessment of DCC was an overall analysis of the proposed development and should not be bound by pre-planning.

7.0 Assessment

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Height, Density, Plot Ratio, Site Coverage
- Residential Amenity
- Impact on Conservation Area
- Appropriate Assessment

7.2. Principle of the Proposed Development

7.2.1. The subject site is located in a residential area, on lands zoned for residential development. The principle of residential development is acceptable and in accordance with the zoning objective for the subject site.

7.2.2. The demolition of the existing building is also acceptable in principle. The site sits at a prominent location on a busy junction and the existing building fails to maximise the opportunities presented by the site, in terms of visual amenity and use of zoned and serviced residential land. The existing building does not integrate well with the surrounding pattern of development and appears to be largely vacant with the exception of some offices on the ground floor.

7.2.3. Subject to other planning considerations the proposed development is acceptable in principle.

7.3. Height, Density, Plot Ratio and Site Coverage

7.3.1. All parties to the appeal acknowledge that the existing building is an anomaly – a 22m tall red-bricked office building surrounded by two-storey residential properties. It responds poorly to the wider residential area, ignores the junction with its blank elevation and appears to overlook the private open space of the gardens on Eglinton Road.

- 7.3.2. The appellant has submitted a Building Height Statement. The document assesses the proposed development against section 3.2 of the 2018 Building Height Guidelines criteria. In terms of city scale, the response notes the public transport options, the proximity of the site to Ballsbridge and provides a LVIA and verified views. In terms of neighbourhood scale, the statement states that the proposed development responds to the wider context and provides a positive contribution. It notes that the proposed development provides a positive frontage, including a step-back to allow the retention of the large Horse Chestnut tree on Eglinton Road and to address the houses on Eglinton Road. The form of the proposed building is a series of interlocking brick volumes, to reduce the mass and scale. The height of the proposed building is assessed in terms of the permitted development of 7/8 storeys to the immediate north, the 11m tall two-storey dwellings on Eglinton Road, the bus garage and the Church. The conclusion is that the proposed height is an appropriate response to the subject site.
- 7.3.3. The existing building has an overall height of 22m at the parapet level of the stair core and a height of 21m across the rest of the building. The proposed building has an overall height of 36m. I do not accept the appellants submission that the proposed building is only 10m taller than the existing building.
- 7.3.4. The proposed building has its highest point facing Angelsea Bridge, stepping down to 5 storeys at the rear (south-west) where it adjoins no. 4 Eglinton Road. The use of inter-locking forms is an appropriate response to the subject site, addressing the varying heights in the immediate area. The palette of materials and the proposed external finishes serve to present an attractive building that nods to the existing dwellings, the mixed uses in the wider area whilst demonstrably being a contemporary new element in the built environment.
- 7.3.5. I note the appellants Building Height strategy and their evaluation of the proposed building against the criteria of the Building Height Guidelines. I also note the Observers criticism of the assessment when they state that it is entirely subjective. The same allegation of subjectivity is made of the Planning Authority by the appellant.
- 7.3.6. The intent of the Height Guidelines is to allow for greater heights on a site-specific basis rather than a blanket threshold. The assessment criteria allow a subject site

and a proposal to be evaluated on a case by case basis. That evaluation will of course involve an element of subjectivity, as it is not an exact science. While it identifies a site that is suitable for a taller building, it does not identify how tall that building can be. So, the appellants evaluation of the proposed 11-storey building is equally applicable were the proposed building 5 storeys, or 6 or 8. In that instance, the assessment must address the other planning considerations the Height Guidelines require – development management standards that assess the residential amenity of the existing area and the future occupants of the proposed building.

- 7.3.7. The proposed building has a density of 555 units per ha. That would be considered extremely high, even in a city centre location. In a suburban location, immediately abutting a series of dwellings that are 10-15 units per ha, it is considered that the proposed development does not appropriately respond to its context. Of the 12 criteria of the urban design manual, the first two are that the development seems to evolve natural from its surroundings and that the increase in density respects the form of buildings and landscape around the sites edges and respects the amenity of neighbouring uses. That the existing building already disregards its context is not a justification for an intensification of those failings. Nor is the recent grant of a part seven, part eight storey building to the north. While the prevailing height of the wider area will undoubtedly change in the future, a proposed development must first integrate successfully with its immediate environment. This is particularly where it is the first re-development in the area, the precedent for the wider area will be set.
- 7.3.8. The site coverage of the proposed development at 56% is acceptable. The proposed plot ratio of 5.1, significantly exceeds the recommended 0.5 to 2 for a Z1 zone (section 16.5 of the development plan). The development plan provides for a higher plot ratio in certain circumstances, namely adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed, to facilitate comprehensive redevelopment in areas in need of urban renewal, to maintain existing streetscape profiles, where a site already has the benefit of a higher plot ratio or to facilitate the strategic role of institutions such as hospitals.
- 7.3.9. I am not satisfied that the Donnybrook Road is a major public transport corridor – it facilitates a number of bus routes but it is in excess of 1.5km from the dart or the Luas. Further, the proposed development is not proposing a mix of residential and

commercial. The site in its existing form has a higher plot ratio, but as discussed above, the existing building is a poor response to the subject site and should not be used as a starting point for future development. The proposed development is not a comprehensive redevelopment in an area in need of urban development, nor is the streetscape maintained in the proposed development. The subject site certainly can accommodate a greater density of development than exists currently, but three-times the recommended standard requires a stronger justification than partially fulfilling one of the criteria.

- 7.3.10. I am not satisfied that the proposed 11-storey building reacts appropriately to the pattern of building heights in the wider area. Certainly, it draws reference from the recently permitted higher buildings to the north, but it makes little attempt to appropriately address the two-storey dwellings on Eglinton Road. The residential dwellings on the adjoining road are undoubtedly the more sensitive uses of the area and while not providing a restrictive benchmark for height, they should nonetheless have played a bigger part in the design response to the subject site.
- 7.3.11. The ability of the subject site to accommodate a taller building in terms of the impact on residential amenity is discussed in greater detail below.

7.4. Residential amenity

- 7.4.1. The Planning Authority's report raises a number of issues relating to residential amenity – both of the existing and future residents.
- 7.4.2. In terms of the future residents, the Planning Authority refers to the aspect of a number of the proposed apartments, specifically unit types 1 and 2. They query the applicants designation of all apartments as dual aspect, stating that providing a second window into a balcony does not qualify as dual aspect. In their response, the applicant states that as both unit type 1 (ground floor apartment no.s 1 and 2) are south-east facing and face high-quality open space, then they do not require a second aspect.
- 7.4.3. I do not accept the provision of an additional window – on the same aspect, as qualifying as dual aspect. Aspect is the positioning of a window / balcony in a specified direction. South-east and east, when separated by only a few centimetres would not qualify as having two distinct aspects, in any common understanding of

the term. The ordinary reader's interpretation and understanding of 'dual-aspect' is, facing two distinct directions. I cannot accept the provision of a second window onto the same balcony— unobstructed or not, as qualifying as dual-aspect. Therefore, I consider unit types 1 (2no.), 2 (5 no.) 4 (8no.), 5 (5no.) all to be single-aspect apartments. Contrary to the applicant suggestion of only 6 no. units being single aspect, I consider 20 no. to be single aspect.

- 7.4.4. As noted by the applicant, single aspect units are acceptable where they face east or south / south-east. This is the case for unit types 1 and 2 of which there are 7 no. in total. North-facing single aspect apartments experience the least residential amenity and should be the exception in a development. The proposed development plans 13 no. apartments to be single aspect north-west facing only (unit types 4 and 5). Out of the proposed 62 no., that equates to 21% of the units having compromised residential amenity.
- 7.4.5. I also raise a concern about unit type 9(7 no.), a studio apartment in the north-western corner of the proposed building. The proposed studios have a north-east facing balcony of 5.9sq.m. and a single window on the south-west elevation. The south-western window, illuminating the bedspace / kitchen / dining area is 0.5m wide. It is questionable whether such a narrow window would allow sufficient sunlight to enter the studio to form any real benefit. Likewise, the high-level windows (see drawing no. 1513-PLA-303) illuminating the south-west elevation of apartment types 4(4 no.) and 5 (3 no.) is so small, the additional sunlight / daylight it will allow is negligible.
- 7.4.6. Such compromises are acceptable where they are compensated by high-quality open space. I am not satisfied that this is the case for the proposed development. The site coverage of the proposed building is such that useable ground level amenity open space is relatively little – approx. 140sq.m on the eastern boundary with the Rover Dodder. The green space along Eglinton Road, whilst aesthetically pleasing does not provide active recreation space and should not be included in the calculation for open space. The proposed terraces on the fourth, eighth and ninth floors will provide welcome open space areas for the upper floors. They will however increase the noise and perception of overlooking of the two-storey residences on Eglinton Road.

- 7.4.7. The appellant refers to the significant overlooking of no. 4 Eglinton Road from the existing building. There can be little debate that the existing building has serious impacts on residential amenity. However, with the proposed demolition being agreed by all parties, the opportunity to re-develop the site to its optimum must be taken. The starting point cannot be the poor precedent of the existing building, but the brownfield redevelopment of the site.
- 7.4.8. The applicant carried out a Daylight and Sunlight assessment of the proposed development. The Planning Authority noted some concerns about the assessment. The appellant responded to this in their appeal submission, with a letter from the authors of the D&S assessment. The letter notes that 20 of the 23 no. sample rooms adhere to the ADF (annual daylight factor) limits. Of the three that didn't meet the standard, they state that two are bedrooms, which are not given as great a weight and that also, the two bedrooms have direct access to private amenity space and the rest of their apartments have an ADF of more than 3%. The third room is the living area of apartment 1. With a score of 1.46%, the shortfall to 1.5% is not significant. The rooms with winter gardens have been tested without the gardens. The apartments with kitchens at the rear have been notionally truncated to demonstrate that the joined living rooms achieve adequate daylight as per BRE guidelines. the exception of apartment no. 1 where the ADF is 1.46%. When testing for annual probable sunlight hours (APSH) 47% of the rooms adhere to annual guidelines, 93% adhere to winter sunlight guidelines. The use of balconies as private open space naturally restricts the level of light penetrating the rooms but this is stated to be common in such developments.
- 7.4.9. The report notes that the thresholds for ADF are 1% for bedrooms, 1.5% for living rooms and 2% for kitchens and that BRE guidelines recommend that non-daylit kitchens should be avoided wherever possible. Where it is not possible to avoid such a layout, the adjoining living / dining room must be well lit – a minimum of 2%. An analysis of the results shows that apartment no.s 1 and 2 on the ground floor fail the test notwithstanding that both are shown as south facing. Apartment no. 10 also fails, despite being a fully dual-aspect apartment.
- 7.4.10. The report notes that the BRE guidance recommend that the aim should be to minimise the number of units whose living rooms face solely north, north-east or north-west unless there is a compensatory measure such as an appealing view. The

view to the north is currently a row of vacant two-storey dwellings and in the future may be a part 7 / part 8 storey apartment block (ABP-303708-19). The proposed development plans 13 no. apartments to be single aspect north-west facing only (unit types 4 and 5).

- 7.4.11. BRE guidance recommends APSH values of 25% annually and 5% winter are unlikely to be met in a “modern, dense, city-centre site”. The subject site is suburban and surrounded by very low-density development. As noted by the appellant, the shortfalls in compliance with BRE recommendations is not significant. However, when the number of single-aspect north-facing units is included, the overall conclusion is a significant impact on residential amenity.
- 7.4.12. The guidelines of the BRE are a starting point. They are not a benchmark upon which a consent can hang. The results of a sunlight analysis must feed into the wider assessment of the impacts of a proposed development on surrounding properties. On this note, I am minded to accept the Observers concerns regarding the impact on their residential amenity. Whilst the overall or average impact of the development could theoretically be classified as slight, I am satisfied that the real-life impacts will be significant and material.
- 7.4.13. In terms of overlooking and overshadowing, the appellant makes the argument that the existing Jefferson House significantly overlooks and overshadows the house and garden of no. 4 Eglinton Road. They submit that the situation will be improved with the proposed building.
- 7.4.14. The proposed upper floor communal open spaces include screening and landscaping to avoid overlooking, notwithstanding this, I acknowledge the very real perception of overlooking from an 11-story building at very close proximity to one’s private amenity area. That users of the proposed building cannot actually see into the appellants rear gardens would not remove the feeling of being overlooked. This is exacerbated by the fact that the separation distances between the subject building and the adjoining residential properties are not sufficient to obviate overlooking from an 11-storey storey building.

7.5. Impact on Conservation Area

- 7.5.1. The subject site is located in the Dodder River Conservation Area and this was noted by the Planning Authority in their reason for refusal. Policy CHC4 of the development plan states that it is the policy of the City Council to protect the special interest and character of a conservation area. The policy provides 5 no. opportunities where enhancement of a conservation area can occur. It is the submission of the appellant that the proposed development qualifies under two of these criteria, namely the replacement or improvement of any building, feature or element which detracts from the character of the area or its setting and Contemporary architecture of exceptional design quality, which is in harmony with the Conservation Area. I concur with the appellants submission that the proposed development complies with the first criteria - the replacement of the existing building which detracts from the character of an area. I do not, however, consider the proposed building to be of exceptional design quality. Given my concerns regarding residential amenity as outlined above, the proposed development cannot be considered to be an exceptional design.
- 7.5.2. The second part of policy CHC4 is a list of 5 no. criteria that development in a conservation area must not do. These are: 1.harm buildings, spaces, original street patterns or other features which contribute positively to the special interest of the Conservation Area, 2.Involve the loss of traditional, historic or important building forms, features, and detailing including roofscapes, shopfronts, doors, windows and other decorative detail 3. Introduce design details and materials, such as uPVC, aluminium and inappropriately designed or dimensioned timber windows and doors 4. Harm the setting of a Conservation Area 5. Constitute a visually obtrusive or dominant form. As discussed above, the existing building does not positively contribute to the conservation area so no. 1 of this list does not apply. Likewise, no.s 2 and 3 are not applicable.
- 7.5.3. Regarding the setting of a Conservation Area, I concur with the appellant that the subject site is not a significant example of a good setting. As discussed above, the proposed development does however constitute a visually obtrusive and dominant form. On balance, it is considered that the proposed development does not comply with policy CHC4 of the development plan.

7.6. **Appropriate Assessment**

- 7.6.1. South Dublin Bay SAC (site code 00210) is located 1.8km east of the site and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) is located 1.8km east of the site.
- 7.6.2. An AA screening report was submitted with the subject application. The report notes the proximity of the subject site to the River Dodder, an undesignated site but nonetheless an important wildlife corridor. The screening report notes that an unused badger sett was recorded on the Riverbank at the subject site.
- 7.6.3. The report concludes that there is no likelihood of any significant effects on any European Sites arising from the proposed development, either alone or in combination with any other plans or projects. The report notes that the site does not overlap with any European sites and that there are no Annex 1 habitats on site.
- 7.6.4. **The South Dublin Bay & River Tolka Estuary SPA (004024)**, according to the NPWS, comprises a substantial part of Dublin Bay. It includes virtually all of the intertidal area in the south bay, as well as much of the Tolka Estuary to the north of the River Liffey. A portion of the shallow bay waters is also included. In the south bay, the intertidal flats extend for almost 3 km at their widest. The sediments are predominantly well-aerated sands. The sands support the largest stand of *Zostera noltii* on the East Coast. The landward boundary is now almost entirely artificially embanked. Sediments in the Tolka Estuary vary from soft thixotropic muds with a high organic content in the inner estuary to exposed, well aerated sands off the Bull Wall. Qualifying interests for the site are as follows: Light-bellied Brent Goose, Oystercatcher, Ringed Plover, Golden Plover, Grey Plover, Knot, Sanderling, Dunlin, Bar-tailed Godwit, Redshank, Black-headed Gull, Roseate Tern, Common Tern and Arctic Tern. The conservation objectives for the site are to maintain the favourable conservation condition of each of the qualifying interests, based on the population trend and distribution of each. For the most part, the target is to see the long-term population stable or increase with no significant decrease in the range, timing or intensity of the use of the designated areas. It is considered that given the proximity of the subject site to the designated site and the scale of urban development in that buffer zone, that the likelihood of significant impact on the conservation objectives of the site is negligible.

7.6.5. **The South Dublin Bay SAC (000210)** extends from the South Wall at Dublin Port to the West Pier at Dun Laoghaire, a distance of c. 5 km. At their widest, the intertidal flats extend for almost 3 km. The seaward boundary is marked by the low tide mark, while the landward boundary is now almost entirely artificially embanked. Several permanent channels exist, the largest being Cockle Lake. A number of small streams and drains flow into the site. The qualifying interest for the South Dublin Bay cSAC is Mudflats and sandflats not covered by seawater at low tide. Four conservation objectives outlined to maintain the favourable conservation status of the mudflats and seaflats are identified by the NPWS, as follows:

- 1) The permanent habitat area is stable or increasing, subject to natural processes.
- 2) Maintain the extent of the *Zostera*-dominated community, subject to natural processes.
- 3) Conserve the high quality of the *Zostera*-dominated community, subject to natural processes and finally
- 4) to conserve the following community type in a natural condition: Fine sands with *Angulus tenuis* community complex.

7.6.6. There is a direct hydrological link from the subject site to the designated sites. Surface water from the proposed development could enter the adjoining River however, given the scale of the built environment between the two sites and the construction management plan proposed for the site, it is considered that no likely significant effects will arise that would compromise the integrity of the conservation objectives for the SAC or the SPA.

7.6.7. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the South Dublin Bay & River Tolka Estuary SPA or the South Dublin Bay SAC or any other European site, in view of the site's Conservation Objectives and a Stage 2 AA (and submission of an NIS) is not therefore required.

7.7. Conclusion

7.7.1. The site is significantly restricted by a number of elements, most notably its size and the existing two-storey dwellings on Eglinton Road. Nonetheless, it is suitable for a high-density, residential development. It is located on a prominent site at a point where a number of heavily trafficked routes converge. The opportunity exists to

create a gateway or a landmark building. Any development that occurs on the site must provide a high degree of residential amenity to the future residents, and must respect the existing low-density two-storey dwellings on Eglinton Road whilst addressing the emerging pattern of taller buildings along this route. Given the concerns outlined above regarding the residential amenity afforded to future and existing residents and the visual impact of the proposed building, it is recommended that permission be refused.

8.0 Recommendation

8.1. I recommend permission be REFUSED for the following reason:

- 1 It is considered that the proposed development, by reason of its height relative to surrounding buildings particularly those on Eglinton Road, scale, massing and bulk at this prominent site, would constitute overdevelopment of the site, would be out of character with the pattern of development in the vicinity. The proposed development with communal open space at upper levels would seriously injure the residential amenity of property in the vicinity. The proposed development, with a number of single-aspect north-west facing units would provide inadequate residential amenity for future residents. The proposed development would seriously injure the visual amenities of the area and therefore, be contrary to the proper planning and sustainable development of the area.

Gillian Kane
Senior Planning Inspector

05 February 2020