



An
Bord
Pleanála

Inspector's Report

ABP-306314-20

Development	Demolition of 2 houses and outbuildings. Construction of 2 apartment buildings containing 69 apartments.
Location	257-259 Mount Prospect Avenue, Clontarf, Dublin 3
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3082/19
Applicant(s)	Jim Dunluce Ltd.
Type of Application	Permission.
Planning Authority Decision	Spilt
Type of Appeal	Third Party
Appellant(s)	Sinead Gargan & Fergus McNamara Niamh and TJ Farrelly
Observer(s)	Julie & Declan Headon Suzanne & Ross Young Brian Dalton & Katie Tom Soye

Colm & Ramona Kennedy
Richard & Krish Power
Clontarf Residents Association
Peter Joyce

Date of Site Inspection

11th May 2020

Inspector

Sarah Lynch

1.0 Site Location and Description

- 1.1. The site, which has a stated area of 0.586Ha, is located to the south west side of Mount Prospect Avenue directly to the south of St Anne's Park, and north west of the junction with Clontarf Road. The western site boundary abuts the rear gardens of properties along Ballymount Park while the eastern boundary abuts a rear lane which serves a mixed-use development on the corner of Mount Prospect Avenue and Clontarf Road.
- 1.2. To the southeast, the site backs onto The Oaks estate, a small residential infill scheme that is accessed off Clontarf Road; and backs onto and is elevated over the eastern embankment of the private access lane to Manresa House further to the southwest.
- 1.3. The site is occupied by two large detached dwellings and their extensive associated garden area. No 257 Mount Prospect Avenue is more aligned with streetscape to the north west onto Mount Prospect Avenue. The dwelling and its deep site, much of it wooded, bounds onto the Manresa House's access to the southwest and demarcates the edge of a natural embankment. No. 259 is set well back from the public road (c.32m) and the more rectangular site is set below the embankment as are Nos. 6-11.
- 1.4. The surrounding area is characterised by two storey predominantly residential development in the form of detached or semi-detached dwellings. Lands slope up from the Clontarf Road in a westerly direction and a significant embankment is present within the western boundary of the site, much of which is planted with Holm Oak trees which were once part of the curtilage of Manresa House to the south. The site is accessed from directly from Mount Prospect Avenue directly opposite St. Anne's Park.

2.0 Proposed Development

- 2.1. Planning permission is sought for:
 - Demolition of the 2 no existing dwellings and outbuildings;
 - Removal of the north-western vehicular entrance and alterations to the north eastern vehicular entrance;
 - Construction of 2 x 5-storey with setback penthouse above (6-storeys) residential apartment buildings accommodating 69 no. residential apartments

- Bin store and bicycle parking will be provided at ground-floor level;
- Provision of 69 no. car parking spaces, including 5 no. disabled car parking spaces; Communal amenity space c.2144m²
- Children's play area 140m²
- Internal access roads, landscaping, boundary treatment, SuDS drainage and all ancillary works necessary to facilitate

3.0 Planning Authority Decision

3.1. Decision

Dublin City Council determined to issue a split decision as follows:

Approve Block A subject to conditions and,

Refuse Block B for the following reasons:

1. Having regard to the residential standards set out in Sections 16.10.1 'Residential Quality Standards – Apartments of the 2016-2022 Dublin City Development Plan and the 2018 DHPLG Apartment Guidelines it is considered that the development of Block B a 5-6-storey apartment block due to its proximity to adjoining existing sites and their attendant private open space would result in an undue loss of outlook and loss of privacy for adjoining residences, as well as providing for a poor visual transition from the adjoining 2-storey terrace dwellings within The Oaks residential estate. The proposed development would, therefore, be contrary to the Ministerial Guidelines - Sustainable Residential Development in Urban Areas –Guidelines for Planning Authorities, 2009 and its companion document the Urban Design Manual – A best practice guide 2009, be contrary to the provisions of the Dublin City Development Plan 2016-2022, seriously injure the visual amenities of the area and depreciate the value of property in the vicinity and by itself and by the precedent it would set, would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the standards set out in Sections 16.3 'Landscaping' and 16.3.3 'Trees' of the 2016-2022 Dublin City Development Plan, it is considered that the extent of the loss of existing planting of mature trees, in this instance primarily Holm Oaks,

would be excessive, and as such would seriously injure the visual amenities of the area contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planners report is consistent with the decision of the planning authority. Further information was requested in relation to the following items:

- Concerns were raised by the Parks Department in relation to the impact on St. Annes Park, location of Block, the status of existing Holm Oak.
- Contiguous views of the proposal including Ballymount Park to Clontarf Road as well as Block B in relation to The Oaks, and additional perspective views of the development from more distant positions.
- Details of levels adjacent to the site development area.
- Detail on boundaries, in terms of new treatments or enhancement of existing etc, as well as additional landscape/planting measures.
- Clarify the upper level 'planter' treatment to both blocks' elevations and reconcile the elevations with the floor plans.
- Reconsider the design of the proposed apartment blocks in terms of their potential overbearing relationship to existing adjoining residential developments, and also to consider measures to break up the linear massing of Block A as it relates to Mount Prospect's sloping streetscape.
- Indicate how the proposed provision of dual aspect units complies with the 2018 Apartment Guidelines for suburban locations.
- Detailed schedule of accommodation.
- 63m² 3-bedspace 2-bed apartments are permissible only in limited circumstances. The applicant is requested to provide a justification for their use within this scheme and to consider using 4-bedspace 2-bedroom apartments as part of the unit mix.

- Confirmation that the apartment floorplan layouts allows for future reconfiguration and amalgamations as suggested by the 2018 Apartment Guidelines.
- Provision of a Social Audit.
- Provide a building lifecycle report.
- Provide minimum individual private open space.
- Detail what measures can be applied to increase the privacy level of balconies and habitable windows that are in close proximity to general circulation areas.
- Provide Daylight, Shadow and Micro-climate impact assessments.
- Provide a qualitative assessment of the development's habitable spaces, private open spaces, communal open spaces and children's play area in terms of the amount/extent and duration of daylight and sunlight received in these areas.
- Provide elevation details of proposed solar panel arrays.
- Alternative treatments for proposed new windows and balconies in order to reduce undue overlooking of 3rd party sites including their private garden spaces and rooflights where they are in close proximity to the proposed apartment blocks, and between the blocks' opposing elevations.
- Provide an Appropriate Assessment Screening report.
- Provide ecological impact assessments of the site, which shall also include a bat and badger survey, and mitigation plan(s) and identify any invasive species on site.
- Confirm legal title for strip to rear of site.
- The applicant is advised to investigate the cumulative impact of the proposed development, taking into account both proposed and permitted applications in the area and to submit a Traffic Impact Assessment.
- No. of cycle spaces, to provide above minimum.
- Revised parking layout.

- Drainage details.

3.2.2. Other Technical Reports

- Drainage Division: further information requested
- (TPD)Roads: further information requested
- City Archaeologist: No objection subject to conditions
- Parks: Refusal recommended.

3.3. Prescribed Bodies

DCHG- A Bat & Badger survey is requested

3.4. Third Party Observations

A number of third-party submissions have been received, the issues raised are outlined within the grounds of appeal.

4.0 Planning History

There is no recently relevant recorded history on this site. The following established a modern residential use on the lands:

- 2970/97 PP GRANTED for detached two storey dwelling house.

5.0 Policy Context

5.1. Development Plan

Dublin City Development Plan 2016-2022

The site is located in an area zoned with the objective 'Z1' Sustainable Residential Neighbourhoods' with the objective 'To protect, provide for and improve residential amenity'

The site is located in flood zone C as identified within the Dublin City Development Plan

- Section 4.5.3.1 Urban Density - quality density is delivered through a variety of mechanisms such as contextual streetscapes, urban form, stepped heights in transitional zones
- Section 16.10 Standards for Residential Accommodation
- Section 16.7.2 Height Limits and Areas for Low-Rise, Mid-Rise and Taller Development* (See Building Height in Dublin)
- QH21 – Provision of adequate residential amenity
- CC4 – Daylight and natural ventilation

Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, Department of Housing, Planning and Local Government March 2018

- SPPR 2 – Dwelling mix.
- SPPR 5 – Ground floor ceiling heights
- Section 4.11 - adequate levels of sunlight to reach communal amenity space throughout the year.
- Section 6.5 – Apartments and daylight provision.

Urban Development and Building Height Guidelines for Planning Authorities 2018

- Section 3.0 - Building Height and Development Management
- Section 3.1 - Development Management Principles 3.1

Project Ireland National Planning Framework 2040

- Section 1.2 Making the vision a reality
- Section 4.5 Achieving urban infill / brownfield development

5.2. Natural Heritage Designations

- c. 110 metres to the west of North Bull Island SPA (site code 004006),
- c. 110 metre to the west of North Dublin Bay SAC (site code 000206),
- c. 947 metres to the north of South Dublin Bay and River Tolka Estuary SPA (site code 004024),

- c. 3km to the north of South Dublin Bay SAC (site code 000210),
- c. 4.5km to the south west of Baldoyle Bay SPA (site code 004016)
- c. 4.5km to the south west of Baldoyle Bay SAC (site code 000199),
- c. 5.8 km to the west of Rockabill to Dalkey Island SAC (site code 003000),
- c. 5.4km to the west of Howth Head SAC (site code 000202),
- c. 7.9 km to the west of Howth Head Coast SPA (site code 004113),
- c. 9km to the south west of Irelands Eye (side code 004117),
- c. 8km to the north of Malahide Estuary SPA (site code 004025),
- c. 8km to the north of Malahide Estuary SAC (site code 000205),
- c. 8.2km to the south east of Dalkey Islands SPA (site code 004172),

5.3. EIA Screening

5.4. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Two separate third party appeals have been lodged by local residents whose properties abut the proposed development site.

Sinead Gargan & Fergus McNamara

- Split decision sets undesirable precedent, little clarity as to what has been permitted.
- The reasons for refusal of Block B also apply to Block A.

- None of the standard reports required in relation to such applications were submitted and further information was incomplete.
- No opportunity to comment on the further information.
- Contravention of DCC Development Plan and Ministerial Guidelines.
- Current density in area is 10-12 units per hectare.
- Block A would have 124 units per hectare.
- Site is not infill or underutilised as there are 2 houses on it.
- Overlooking from apartment balconies in Block A.
- Overshadowing study shows impact is severe at certain times.
- Injurious to the UNESCO Biosphere of Dublin Bay and North Dublin Bay SAC and North Bull Island SPA.
- Destruction of wildlife habitat and ecological corridor for badgers, bats and foxes etc.
- Noise and light pollution.
- Design and environmental quality of apartments.
- Apartments are up to 19.9m in areas which exceeds DCC Development Plan standards of 16m in such areas.
- The development of a 6-storey apartment block directly beside a two storey dwelling is an abrupt change in heights.
- Unit mix is below the requirements.
- Private balconies are below the minimum area.
- External communal space can only be accessed via steps which renders it inaccessible to wheelchair users and buggies.
- Play area is overshadowed.
- The use of narrow slot obscure glazed windows cannot be considered as having a dual aspect.
- Injurious to residential and visual amenity.
- Devaluation of property.
- Block A will have a similar impact on trees to that of Block B.

- No architectural heritage impact assessment was provided with application.
- Felling trees is contrary to DCC Tree Strategy.
- Proposed new trees will fail to thrive give limited space for roots.
- Proposal due to scale, mass, bulk, height and siting would have a detrimental impact on St. Anne's Park Conservation Area.
- Site is not serviced well by public transport.
- Distance to Dart station is excessive.
- NIS is inaccurate.
- Bat survey was carried out over a single day, bats were found to be foraging yet DCC stated that there were no bats using the trees.
- A dark corridor for foraging bats is recommended yet none are proposed
- Badgers were noted and mapped on the site as part of an application on a neighbouring site in 2015 ref:3964/15.
- Noise and disturbance from activities on site.
- Lower density scheme is considered more appropriate.

Niamh & TJ Farrelly

- The reasons for refusal of Block B also apply to Block A.
- The Holm Oak was planted as it could withstand sea air and provide shelter around the Guinness Estate.
- Trees were part of the original path around St. Annes park and provide canopy for wildlife.
- No analysis of what the structural impact will be on appellants dwelling given the flow of underground water.
- Difficulties in maintaining a living wall which faces north, this will be a financial burden on residents.
- Concerns about the flank north wall and deep corner.
- Social Audit – Frequency of bus service is to be reduced to 15 minute intervals.

- Distance to Raheny train station is 2km through St. Annes Park and 3km by road.
- Loss of morning light
- Overlooking
- Loss of privacy
- Site is located 100m from Dublin Bay
- A full bat survey should be carried out as bats were sighted.
- Badgers are a regular visitor to neighbouring properties from the site.
- TIA omitted assessment of wkd traffic.
- Due to omissions and errors in information submitted to DCC the file should be overturned and refused.

6.2. Applicant Response

Hughes Planning and Development Consultants have prepared a response to the grounds of appeal on behalf of the applicant. The issues raised can be summarised as follows:

- A revised block B application is imminent.
- Neither reasons for refusal could be considered relevant to Block A.
- The further information was not considered to be significant and did not warrant new notices.
- Density is acceptable.
- Overlooking is not of concern.
- No overshadowing.
- Proposed unit mix is in accordance with the Apartment Guidelines 2018.
- Private open space is in accordance with the Apartment Guidelines 2018.
- A revised landscaping plan will be agreed.
- Single aspect units have compensatory views.

- Not all trees are of a high quality and will be replaced by native species.
- Given the separation distance from the site to the protected structures in the park it is considered that no impacts to the integrity of these structures will arise.
- Site is located in a highly accessible area.
- There was evidence of bat foraging, no evidence of badgers.
- Lights are to be downward lighting.
- Separation distance between the site and the dwellings will provide sufficient distance to diffuse any noise arising from the entrance of the appeal site.
- Design of development is sympathetic to surrounding area and impact on neighbouring properties minimised.
- Precedent for infill development providing density of 83 units per hectare.
- 3-5 storey blocks can be accommodated adjacent to two-storey dwellings without impacting on residential amenity.

6.3. Planning Authority Response

- None

6.4. Observations

8 no. Observations were received from local residents, the issues raised are similar to those set out in the grounds of appeal and are summarised as follows:

- Development remains injurious to residential and visual amenities of adjacent properties.
- Proposal is an overdevelopment of a unique site.
- Threat to wildlife.
- Does not reflect the character and scale of existing development in the area.
- Impact on protected sites needs further examination.
- Existing trees are visible from coastline and it is the policy of the Climate Action Plan to protect trees.

- Two species of bat were found to be using the site for feeding and commuting. These bats are on the red list.
- Bat survey should be undertaken in the summer.
- Trees within site provide a wildlife corridor to St. Annes Park.
- Recently planted Holm Oak in St. Annes Park provide link to Oaks on site and to Manresa House.
- Tree survey is fundamentally flawed.
- Remaining trees would experience root loss.
- Viability of the living wall is questionable.
- Remaining trees would experience root damage.
- Landscaping plan unclear.
- Density is unacceptable.
- Area is not well served by public transport.
- Mix of units is not appropriate.
- Open space below standard.
- Ownership of land is questionable and legal assistance has been sought.
- Access to children's play space is via steps.
- Concerns regarding damage to existing gardens when removing trees and soil in site.
- Overshadowing analysis does not take account of trees to be retained and is therefore flawed.
- Overlooking
- Directional windows and high opes have not been included in the design.
- Apartments are single aspect.
- No information in relation to proposed 6 metre retaining wall.
- Improvement in design proposed for wall at the lower level of Block A.

- Block A should be refused for the same reason as Block B.
- Increase in noise pollution due to car park.
- Negative impact on UNESCO biosphere of Dublin Bay.
- Holm Oak trees form part of the curtilage of Manresa House and should be protected.
- Trees were not assessed as a group but as individuals.
- Photomontages or seafront treescape were not submitted.
- Bat Survey is flawed and was only carried out over one night.
- Badger survey was not carried out at the right time.
- Proposal would prevent properties at Clontarf road to develop mews houses.
- Due process should be followed.
- Shortfall in private open space.
- Brent Geese fly over and nest in the trees.
- Loss of morning light will impact welfare of resident.

7.0 **Assessment**

7.1. This is a third party appeal by 2 no. appellants, the grounds of appeal will be examined on a theme basis as there is a considerable overlap in the issues raised. The site is located in an area subject to the Z1 objective, which seeks to protect, provide for and improve residential amenity. Residential development is acceptable under this zoning objective.

7.2. Dublin City Council determined to issue a split decision and refused Block B of the proposed development which was located to the rear of the site. The reasons for refusal pertained largely to the loss of privacy to neighbouring properties and the poor visual transition from the two storey terrace dwellings within the Oaks residential estate and the loss of Holm Oak trees. It is important to acknowledge that the appeal relates to the permission of Block A, however I consider it necessary to examine the scheme in full as proposed.

7.3. It is of further relevance to the assessment of the development to note that revised plans were submitted in response to request for further information. Key changes arising from this request include the reduction of apartments from 69 to 65, reduction in car parking spaces from 69 to 67, the increase of bicycle spaces from 53 to 78 and the set back of 4th and 5th storey south eastern gable elevations in Block A and redesign of front façade of Block A. The revised plans submitted in response to the further information request will be the subject of the following assessment. It is of note at this juncture that further information submitted was not considered significant by the Council and as such was not re-advertised.

7.4. The issues to be examined in relation to this appeal can be summarised as follows:

- Impact on Visual Amenity of area & appropriateness of height and density
- Unit Mix
- Loss of privacy
- Adequacy of open space
- Impact on Ecology of the site and surrounds
- Impact on trees
- Appropriate Assessment
- Flooding
- Access
- Other Matters

Impact on Visual Amenity of area & appropriateness of height and density

7.5. It is contended by the appellants that the proposed development will have a significant visual impact on the existing visual amenity of the area. Concerns have been raised in relation to the visual setting of St. Anne's Park and Manresa House, the established pattern of development in the area and the integration of the building given its scale, height and bulk when viewed in conjunction with the existing low density two storey housing in the adjoining sites.

7.6. It is proposed to construct 2 no. 5 storey apartment blocks within the site whereby the prevailing pattern of development is a mix of detached two storey dwellings along

Mount Pleasant Avenue, two storey terrace dwellings within The Oaks and two storey semi-detached dwellings along Baymount Park. A commercial development is present at the junction of Mount Prospect Avenue and Clontarf Road which accommodates a large three storey dual aspect building of modern design. The proposal will provide for a density of 118 units per hectare and a site coverage of 32%. Dublin City Development plan which provides for a range of 45-60% within Z1 zoned lands, given the topography of the site and the established woodland I consider the site coverage proposed to be acceptable.

- 7.7. I note concerns were raised within the grounds of appeal in relation to the density of the development in the context of the surround low densities. As per Section 2 of the Apartment Guideline the appeal site is within an intermediate Urban Location as it is within a 5 minute walk of a reasonably frequent urban bus service and within 800-1000m of the urban centre. Densities in excess of 45 units per hectare are acceptable at such locations as are developments that wholly comprise apartments. Therefore, having regard to the foregoing and the provisions of the Dublin City Development Plan I consider that the proposed density is acceptable in this instance.
- 7.8. Concerns were also raised in relation to the appropriateness of the proposed height of the Blocks. It is of note that the Dublin City Development Plan permits heights of 16 metres in such outer city areas. The proposed development is in excess of 19 metres in height. Specific height restrictions have now been superseded by the DHPLG's 'Urban Development and Building Heights Guidelines for Planning Authorities' which supplements NPF 2040 - with 'height' to be assessed by various development management criteria. In relation to building height within suburban/edge locations it is noted that Section 3.6 of the national guidelines states that 4-storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets. The principle of a height exceeding that specified within the plan is therefore accepted and will be examined in the context of the impact to surrounding properties within the vicinity of the site.
- 7.9. The appeal site is large with road frontage of c.61 metres adjoining Mount Prospect Avenue, lands slope downwards to the Clontarf Road in a south easterly direction. The front elevation of Block A addresses Mount Prospect Avenue and faces St. Anne's Park. Plans submitted in response to the further information request propose a living wall planted with trees and shrubs within the central recess of this elevation. This

design approach effectively softens the appearance of the building when viewed in the context of the adjacent park and coupled with the proposed recessed floors and balconies serves to break up the overall massing and bulk of the building. Thus reducing the overall dominance of the Block when viewed in the context of existing established development along Mount Prospect Avenue.

- 7.10. Whilst the design approach is successful in reducing the overall bulk of the Block, quality materials will be key to the success of this design approach and should the Board be of a mind to grant permission I recommend that a condition is imposed to ensure that materials are agreed with the planning authority prior to commencement of the development.
- 7.11. Overall having regard to the topography of the site in which contours reduce in a west to east direction and, having regard to the design approach proposed for Block A whereby upper floors are recessed and the provision of a living wall within the central front recess, I consider the design, scale and bulk of Block A to be acceptable. This element of the development, whilst very different to existing development in the street, will, by reason of the foregoing, integrate comfortably within the streetscape and will not appear overly dominant when viewed in the context of the existing established development.
- 7.12. Concerns raised in relation to Block B relate to excessive scale, bulk, height and massing. It is of note that the Council has refused permission for this element of the development and raised concerns in relation to the transition in height from the 2 storey dwellings within The Oaks development to the proposed development.
- 7.13. I noted at the time of inspection that The Oaks development is largely out of sight from the main public road. However, Block B will be located c. 4.5 metres north of this development and the proposed side elevation of this block will extend for 5 storeys directly adjacent to and for the full length and beyond of these property side and rear boundaries.
- 7.14. The development of Block B would result in the provision of a 5 storey wall adjacent to the rear garden of no. 6 The Oaks, which is currently surrounded by woodland. Whilst I am satisfied that the appeal site has the capacity to accommodate such higher density development, I would have concerns in relation to the impact of this Block on dwellings within The Oaks in terms of the overbearing nature of the 5 storey flank wall

directly adjacent to these properties. A stepped approach incorporating recessed upper floors would sit more comfortably with the existing two storey development in the area and would significantly address the overbearing nature of the southern side elevation, I consider that there is significant scope for a second block of accommodation within this site, however, the current Block which essentially in a Block form is not appropriate in this instance.

- 7.15. I further note from plans submitted with the further information response, that the proposed Block B will be set back from the dwellings on the Clontarf road by c. 44 metres. However, notwithstanding that this block will be built into the site, it will nonetheless be in a more elevated position to the existing dwellings along the Clontarf Road. Having regard to the significant increase in height and given the rise in land levels from the Clontarf road I consider that Block B as currently designed would appear overly dominant when viewed from the east in conjunction with existing two storey development present on the Clontarf road. Whilst, as aforementioned, I am satisfied that an additional block of apartments can be accommodated on this site, I considered a more sympathetically designed structure would sit more comfortably within this element of the site which addresses the significant height transition in relation to development both within The Oaks development and to a lesser extent that along the Clontarf Road.

Unit Mix

- 7.16. Issues have been raised within the grounds of appeal in relation to the mix of apartments. I note from the plans submitted that the large majority of apartments are 2 bedroom, 3 bed space units. While the apartment types meet the 2018 Apt Guideline's minimum unit standards it is noted that Specific Planning Policy Requirement 3(SPPR3) of the DHPLG's 2018 Apartment Guidelines recommends that 2-bed apartments are 73m² 4-bedspace units and that 63m² 3-bedspace 2-bed apartments are permissible only in limited circumstances – but are suitable for social housing or as units in purpose built housing for older people. The applicant was requested to provide a justification for this within the further information request and responded that the proposed 2-bedroom 3-bedspace units range between 76m² and 77m² which is in excess of the 2018 Apartment Guidelines minimum of both the 63m² required for 2-Bed/3P apartments and 73m² required for 2-Bed/4P apartments. The

revised development will have 49no. 2-Bed apartments with four of them being 2-Bed/4P apartments.

- 7.17. Section 3.8 of the Apartment Guidelines requires that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%). This would require a floor area of 80.3% in the majority of two bedroom units. The proposed apartment layout does not provide for this floorspace and therefore does not comply with the requires of the said guidelines.
- 7.18. No justification which accords with the limited circumstances specified within the guidelines has been submitted. I therefore consider that the provision of only 4 adequately sized 2 bedroom 4 bed space apartments is not acceptable and as such the proposed scheme does not provide for the standard of accommodation that the guidelines require.

Impact on residential amenity

- 7.19. It is contended within the grounds of appeal and the observations received that the proposed development will give rise to a significant loss of privacy and overshadowing to established residential properties adjoining the site, particular reference has been made to properties within The Oaks which is located c. 5 metres from the proposed Block B to the south east of the site, existing dwellings located in Baymount Park which are c. 58 metres to the north west and existing dwellings along Mount Prospect Avenue which are located c. 6 metres to the northwest of the site.
- 7.20. With regard to Block A it is of note that the proposed block respects the established building line within Mount Prospect Avenue and extends c. 4 metres beyond the rear building line. Windows within the north western and south eastern elevation, as per plans submitted in response to the further information request are to be installed with opaque glazing. These windows will serve as a light source to proposed kitchen areas within the apartments. Corner balconies will be fitted with 1.8 metre high privacy screens in order to prevent any direct overlooking to neighbouring properties and the penthouse terraces are stepped back into the building providing for a greater separation distance and also incorporate a 1.8 metre privacy screen.

- 7.21. Having regard to the foregoing I consider that Block A will not give rise to significant levels of overlooking and I am satisfied that the measures proposed by the developer in this regard sufficiently mitigate the potential for loss of privacy to existing established residential properties in the area.
- 7.22. Block B is to be positioned to the rear of Block A and, given the change in levels on the site, will be significantly lower than existing properties located along Baymount Park. It is important to acknowledge at this juncture that the proposed rear elevation of Block B will look out over the proposed woodland area and open space and is set back from properties along Baymount Park by c. 58 metres. Given the significant separation distances provided for in this instance and the proposed landscaping which will largely screen these properties, I consider that significant loss of privacy to dwellings located along the north western and south western boundary of the site will not arise. It is also important to note that the outlook of these units over the woodland and landscaped area would adequately mitigate any loss of secondary aspect.
- 7.23. As previously mentioned, properties within The Oaks development to the south east of the appeal site will be separated from the development by c. 5 metres. Similar to Block A, it is proposed to insert light boxes fitted with opaque glazing in order to prevent any direct overlooking to these properties. These light boxes are a supplementary secondary light source for kitchens and in a number of cases bedrooms and as such the use of opaque glazing is acceptable. Furthermore, the use of such features to mitigate for loss of privacy is common practice in such urban sites.
- 7.24. It is also proposed to install 1.8 metre high privacy screens within the balcony areas of the block and supplementary planting is also proposed in these areas which will soften the overall appearance of the building and prevent overlooking from balconies.
- 7.25. As mentioned above, Block B will be located c. 44 metres to the rear of dwellings along the Clontarf road. These properties are two storey in height and due to the topography of the surrounding land, they sit below the site. A service lane is present to the rear of these dwellings and some rear garden areas have been developed. Given the separation distances provided and having regard to the urban nature of the surrounding area I consider that overlooking to properties along the Clontarf Road will not be significant. I am satisfied that a 44 metre separation distance is sufficient to adequately mitigate against any potential loss of privacy to these properties.

- 7.26. Concerns were also raised within the grounds of appeal and the observations submitted in relation to overshadowing to surrounding properties. The applicant has submitted a shadow analysis for the proposed scheme which notably does not take into account the effects of the existing woodland in terms of overshadowing.
- 7.27. The shadow analysis submitted demonstrates that whilst Block A will give rise to overshadowing, it is not significant. Block B, however, will result in overshadowing to dwellings along Mount Prospect Avenue during winter morning sun hours, with no. 255 being affected until after midday.
- 7.28. It is of importance to note at this juncture that infill development at locations such as the appeal site supports the notion of compact growth which is significantly supported by the policies of the National Planning Framework in which it is an objective to deliver at least 40% of all new housing within the existing built up areas of cities. In order to deliver on the principles of compact growth a degree of flexibility must be provided for in relation to issues such as overshadowing.
- 7.29. Having regard to the information submitted, I consider that overshadowing will be minimal and will not significantly impact surrounding residential development to such a degree as to warrant a refusal of the development. Furthermore it is important to acknowledge that the shadow analysis does not take account of current levels of overshadowing arising from the woodland and as such the overall increase in overshadowing arising from the development may not significantly exacerbate the current situation on site. Having regard to the foregoing I am satisfied that the residential amenity of surrounding properties can be adequately protected in this regard.
- 7.30. Concerns have also been raised in relation to noise and light disturbance. The site is located in an urban built up area surrounded by residential development, St. Annes Park whereby multiple social activities are carried out and commercial development on the Clontarf Road, to refuse permission for a residential development on the basis of noise and light disturbance arising from residential activities would be unreasonable. I note that, the developer has proposed to utilise soft lighting within the scheme and downlighters where required. This will reduce light pollution to surrounding dwellings. The reduction of light pollution will be examined in more detail below in relation to bats.

- 7.31. Noise arising from construction activity can be adequately controlled by condition, this is standard practice. If the Board are minded to approve permission I recommend that a condition is imposed which ensures that construction noise emissions are compliant with industry standards.
- 7.32. I note from the grounds of appeal that concerns are raised in relation to the single aspect of many of the apartments and the access to daylight in accordance with BRE standards. The Dublin City Development Plan 2016-2022 under policy CC4 encourages building layout and design which maximises daylight and requires residential development to be guided by the principles of Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011). This document gives minimum values for the average daylight factor (ADF) required in dwellings. The percentage required for a kitchen is 2%, for a living room 1.5%, and for bedrooms 1%.
- 7.33. The sunlight and daylight access analysis submitted with the application outlines that a small samples of rooms that are likely to receive the lowest levels of daylight and sunlight were modelled and the predicted levels for these rooms is significantly in excess of the minimum level required by the BRE guidance. Levels predicted for such rooms range between 4.75% and 6.39%. Having regard to the foregoing I consider the levels of daylight and sunlight available to the proposed development to be acceptable.

Impact on Ecology of the site and surrounds

- 7.34. It is contended by the appellants within the grounds of appeal and within the observations to the appeal that the appeal site supports a variety of wildlife which should be protected. Residents have submitted photos of foxes and badgers in their gardens. The applicants in response to the further information request have submitted an ecological report.
- 7.35. It is stated within this report that no sightings of badgers were recorded during the walkover and it was unclear whether badgers utilise the site for foraging, however mammal tracks were noted. Bird activity was observed within the canopy of the woodland and a bat survey was carried out which concluded that bats did not have a summer roost but used the woodland to forage. The bat survey submitted appears to have been carried out over one night on the 29th August. It is stated within the report that some trees have a moderate to high potential for bat usage due to deep crevices.

Bats were observed within neighbouring gardens and along the treeline. Species identified as feeding and commuting on the site are identified within the Bat and Badger Survey submitted as Soprano pipistrelle and Leisler's Bat. Recommendations are included within the report which require the checking of all buildings and trees which are ivy clad or have cracks or crevices to be checked before commencement of development or felling of trees. Bat boxes are also recommended as a compensatory measure for felling of trees as well as the planting of native shrubs and a dark night sky lighting scheme.

- 7.36. Having regard to survey carried out it appears that bats are utilising the woodland but the level of activity is unclear. The Bat Mitigation Guidelines for Ireland recommend that tree surveys should be carried out over a number of visits between June to August given the difficulty in surveying such areas. In addition it is stated within these guidelines that development proposals that would result in the loss of roost sites with no proposed mitigation would require substantial supporting evidence to demonstrate clearly that there would be no adverse effect on favourable conservation status. Based on the Bat survey submitted the applicant has failed to adequately demonstrate the full extent of the bat population present or using the site within the woodland.
- 7.37. The removal of 59 trees will undoubtedly displace bats currently using the site and given the significant removal of habitat I would have serious concerns in relation to the level of impact this would have on the bat populations in the area. It is of significant relevance that the report concludes that tree canopy which supports foraging bats should be retained as should those supporting the tit colony, however the report fails to indicate the particular area of tree canopy to be retained and does not state whether the proposed area of trees to be retained is adequate to support bat species utilising the site.
- 7.38. Based on the information provided and the information available within the biodiversity Ireland mapping in relation to bat records, I am not satisfied that the applicant has adequately demonstrated that there would be no adverse effect on the favourable conservation status of protected bat species. I therefore do not consider the proposed development to be acceptable in this regard.
- 7.39. The ecological report submitted also examined the woodland floor and noted that it did not contain woodland flowers due to the evergreen canopy of the Holm Oak.

Planting native oak is suggested in order to improve the ecological value of the woodland floor.

Impact on Trees

- 7.40. Concerns have been raised in relation to the impact of the development on the existing Holm Oak woodland within the site. It is stated within the grounds of appeal and observations that this woodland provides a number of functions which include a green corridor to St. Annes Park, a significant amenity value in terms of visual amenity to surrounding properties, enhanced privacy to dwellings along Baymount Park and a historical value given that these trees were once within the curtilage of Manresa House and were planted in the 1800s.
- 7.41. Dublin City Council raised concerns in relation to the impact of the development on the trees within the site and had particular concerns in relation to Block B. These concerns were not addressed within the response to the further information request and thus resulted in the refusal of Block B due to its impact on the trees.
- 7.42. I note from the documents submitted that a tree survey was submitted with the planning application in which it is stated that the proposed development will require the removal of 80 trees/shrubs. This includes 59 trees, 9 of which are recommended for removal based on health grounds.
- 7.43. Section 6.4 of the submitted arboriculturist report states that 92% of the trees to be removed are of poor and low quality value. A number of trees are proposed for retention along the north western boundary of the site and it is proposed to plant new trees along the south eastern and north eastern boundaries.
- 7.44. The categorisation of the trees as poor or low value within the report submitted was contended by the DCC Parks and Landscape department, who state in their response to the application, that the trees must be assessed as a grouping and the overall amenity value afforded from them as a collective rather than individually.
- 7.45. It is of relevance at this juncture to refer to the requirements of the Dublin City Development Plan whereby under Section 16.3.2 and 16.3.3 it is the policy of the Council to retain existing trees and vegetation where possible and the retention of such trees is seen as a benchmark of sustainable development. It is also the policy of the Council, as per the plan, to ensure maximum retention, preservation and management of trees and groups of trees. Criteria such as the ecological value, rarity,

contribution to any historic setting, significance of trees in framing views and the amenity value and streetscape all require consideration when determining the significance of trees in the context of new development.

- 7.46. The Arboricultural report submitted with the application states that the amenity value of the trees for the surrounding area is not significant, by reason of their location within the site and not adjoining a public road. It is acknowledged that the greatest amenity value of these trees is enjoyed from the properties along the north-western and southern boundaries. Whilst I acknowledge that these trees are within a site and do not adjoin a public road, they nonetheless provide a unique setting for the dwellings which surround them. It is highly unusual to encounter such a large grouping of trees within an urban area.
- 7.47. Holm Oak are an ornamental species which would have been planted in gardens and estates across the country for their appearance and thus whilst the original curtilage of Manresa House has been fragmented, these trees have a certain historical value and there is merit in retaining them. However, I also accept that, as mentioned within the Arboricultural report, this woodland has not been managed and as such many of the trees are not growing to their full capacity. In order to retain the best specimens and prolong the life of this woodland, it will be necessary to remove a number of trees and actively manage the remaining specimens.
- 7.48. It is contended within both the grounds of appeal and the observations received that the woodland is utilised by a large number of mammals, birds and bats. Photographs have been submitted by local residents of wildlife entering their gardens. Such woodlands undoubtedly provide a function in the supporting of wildlife and I accept that the development would have a negative impact on the current levels of wildlife accessing the woodland and the surrounding area.
- 7.49. I have reviewed the plans submitted and had regard to the issues raised by the appellants, observers and the DCC Parks and Landscape department in relation to both the removal of trees and the likelihood of damage occurring to the remaining trees from the proposed development and the proposed protection measures outlined within the Arboricultural report submitted. Based on the information submitted and the assessment criteria of the Development Plan I consider the removal of 59 trees required to facilitate the proposed development, in particular Block B, to be

unacceptable. It is widely acknowledged that such urban woodlands provide a level of resilience to the urban environment in the context of climate change and should where possible be protected. I consider that, notwithstanding the protection measures proposed within the Arboricultural report, the proposed development would undermine the woodland and result in its further demise.

7.50. The proposed development by virtue of the extent of the loss of mature trees and the measures proposed to protect trees to be retained would be contrary to the provisions of the Dublin City Development Plan which seeks to ensure the maximum retention, preservation and management of such groups of trees.

Appropriate Assessment

7.51. An Appropriate Assessment screening document was prepared by Hughes Planning and Development Consultants on behalf of the applicants. The screening document describes the proposed development, its receiving environment and relevant European Sites in the zone of influence of the development. Concerns were raised within both the grounds of appeal and observations to the appeal in relation to the potential for impacts arising from the development to Natura 2000 sites in the surrounding area and the Dublin Bay UNESCO Biosphere.

7.52. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors, the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

European Site Name & Code	Distance	Qualifying Interest	Source-pathway-receptor	Considered further in screening
North Bull Island SPA (004006)	c.100m	Wintering Waterfowl	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the

				works from the SPA and the dilution and dispersion factor provided by the sea.
North Dublin Bay SAC (000206)	c. 100m	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with Ammophila arenaria (white dunes) [2120]</p> <p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p>Petalophyllum ralfsii (Petalwort) [1395]</p>	Pathway via surface water discharge to sea.	<p>No</p> <p>No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.</p>
South Dublin Bay and River Tolka Estuary SPA (004024)	c.3km	Wintering Waterfowl	Pathway via surface water discharge to sea.	<p>No</p> <p>No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion</p>

				factor provided by the sea.
South Dublin Bay SAC (000210)	c. 3km	[1140] Tidal Mudflats and Sandflats [1210] Annual vegetation of drift lines [1310] Salicornia and other annuals colonising mud and sand [2110] Embryonic shifting dunes	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.
Baldoyle Bay SPA (004016)	c.4.6km	Wintering Waterfowl	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Baldoyle Bay SAC (000199)	c.4.6km	[1140] Tidal Mudflats and Sandflats [1310] Salicornia Mud [1330] Atlantic Salt Meadows [1410] Mediterranean Salt Meadows	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.

Rockabill to Dalkey Island SAC (003000)	c. 6km	[1170] Reefs [1351] Harbour Porpoise (Phocoena phocoena)	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.
Howth Head Coast SPA (004113)	C. 8km	[A188] Kittiwake (Rissa tridactyla) [breeding]	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Howth Head SAC (000202)	c.6km	[1230] Vegetated Sea Cliffs [4030] Dry Heath	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.
Irelands Eye SPA (004117)	7.5km	[A017] Cormorant (Phalacrocorax carbo) [breeding] [A184] Herring Gull (Larus argentatus) [breeding]	Pathway via surface water discharge to sea.	No No potential for effects given the separation

		[A188] Kittiwake (<i>Rissa tridactyla</i>) [breeding] [A199] Guillemot (<i>Uria aalge</i>) [breeding] [A200] Razorbill (<i>Alca torda</i>) [breeding]		distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Irelands Eye SAC (002193)	c.7.5km	[1220] Perennial Vegetation of Stony Banks [1230] Vegetated Sea Cliffs	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.
Malahide Estuary SPA (004025)	c.7.5km	Wintering Waterfowl	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Malahide Estuary SAC (000205)	c.7.6km	[1140] Tidal Mudflats and Sandflats [1310] Salicornia Mud [1330] Atlantic Salt Meadows [1410] Mediterranean Salt Meadows [2120] Marram Dunes (White Dunes)	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion

		[2130] Fixed Dunes (Grey Dunes)*		factor provided by the sea.
Dalkey Islands SPA (004172)	7.6km	[A192] Roseate Tern (<i>Sterna dougallii</i>) [passage] [breeding] [A193] Common Tern (<i>Sterna hirundo</i>) [passage] [breeding] [A194] Arctic Tern (<i>Sterna paradisaea</i>) [passage] [breeding]	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Rogerstown Estuary SPA (004015)	13km	Wintering Waterfowl	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SPA and the dilution and dispersion factor provided by the sea.
Rogerstown Estuary SAC (000208)	13km	[1130] Estuaries [1140] Tidal Mudflats and Sandflats [1310] Salicornia Mud [1330] Atlantic Salt Meadows [1410] Mediterranean Salt Meadows [2120] Marram Dunes (White Dunes) [2130] Fixed Dunes (Grey Dunes)*	Pathway via surface water discharge to sea.	No No potential for effects given the separation distance of the works from the SAC and the dilution and dispersion factor provided by the sea.

- 7.53. The Appropriate Assessment Screening document submitted with the application screens out all of the foregoing Natura 2000 sites for the purpose of Stage 2 Appropriate Assessment. The site is located in a serviced built up area of Clontarf and there is a significant level of development present between the appeal site and these protected sites. The proposed development is located within an existing brownfield site and construction will be contained within the appeal site and will not impact on either the SACs or SPAs listed above.
- 7.54. As such, having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any European site, I am satisfied that no Appropriate Assessment issues arise and I do not consider that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site or indeed the Dublin Bay UNESCO biosphere in which many of these sites are located.

Flooding

- 7.55. A site-specific flood risk assessment has been prepared by IE Consulting on behalf of the applicant. Indicative flood mapping for the area indicates no fluvial, coastal or groundwater flooding within the site boundary and alluvium deposits are not mapped within or adjacent to the site boundary. OPW maps derived from the Dublin Pluvial Study indicate potential for pluvial flooding within the south of the site, however the majority of the site would not be impacted.
- 7.56. Having regard to the foregoing the primary risk to the proposed development in terms of flood can be attributed to a pluvial flood event within the south western boundary. Secondary and residual pluvial flood can be attributed to a potential surcharge /failure of the urban drainage or water supply infrastructure.
- 7.57. It is stated within the flood risk assessment submitted that flood waters arising from a surcharge would not enter the site given the topography of the surrounding lands. The overall secondary and residual risk is therefore low.
- 7.58. Apartments are not proposed within the most southern section of the site, apartments adjacent to the area of least probability will commence at first floor, no ground floor apartments are proposed within this block and as such will not be impacted.

- 7.59. The proposed development will incorporate an appropriately designed and constructed storm water management system in the form of a soakaway. This system will attenuate and discharge storm-water run-off from the development site to existing greenfield runoff rates. The development is therefore not expected to increase pluvial floods risk elsewhere.
- 7.60. Floor levels proposed are above the predicted mid-range climate change scenario coastal flood level for the area and are acceptable. Thus, having regard to the foregoing and the information submitted, I consider that the risk of the proposed development being impacted is low and the proposal will not exacerbate flood levels downstream or within the surrounding area.

Traffic

- 7.61. The applicants have submitted a Transportation Assessment report with the planning application. Traffic levels are indicated as low during the weekdays however it is acknowledged that at weekends activities within St. Annes park can give rise to an increase in traffic levels. In accordance with TII Assessment Guidelines the critical assessment periods are the weekdays AM and PM commuter peak hours.
- 7.62. Capacity modelling has been undertaken and it is stated that at the time of the study there were no significant developments which would affect the study area.
- 7.63. Access to the site is to be via a priority access onto Mount Prospect Avenue which will replace the existing accesses. 67 off street car parking spaces are to be provided with 78 bicycle spaces.
- 7.64. Table 16.1 of the Dublin City Development Plan 2016-2022 permits a maximum of 1.5 spaces per 3 bed unit and 1 per 2 bed unit. The proposed development is in accordance with these requirements. The site is accessible by public transport and I therefore consider the level of parking provided to be satisfactory. In addition, 1 cycle space per unit is required as per Table 16.2 of the plan, the applicant proposes 78. I am satisfied that the level of bicycle parking is sufficient to adequately cater for the proposed development.
- 7.65. Traffic modelling was carried out and results yield within the assessment submitted demonstrate that there is adequate capacity within junctions for weekday AM and PM periods in a worst case scenario instance.

- 7.66. It is concluded within this assessment that the proposed development will have a negligible impact on the capacity and safety of the road network in the area.
- 7.67. Overall, based on the information submitted I am satisfied that the proposed development provides for a development which can be adequately catered for in terms of access and car parking. The proposal has been designed in accordance with the requirements of the Dublin City Development Plan and the provision of a priority access will prevent traffic hazard arising to road users along Mount Prospect Avenue.

Open Space

- 7.68. It is contended within the grounds of appeal that the quantum and quality of open space is not adequate. Concerns have been raised in relation to the size of balcony areas and the accessibility of the children's play area. The developer proposes to provide a woodland amenity area to the north west and south west of the site whereby it is proposed to retain a number of trees and provide a wooded walk and a dedicated children's play area to the north of Block B.
- 7.69. The 2018 Apartment Guidelines recommend for schemes of 25 or more units with two or more bedrooms that small play spaces (about 85 – 100 sq. metres) be provided for the specific needs of toddlers and children up to the age of six, with suitable play equipment, seating for parents/guardians, and within sight of the apartment building. In this instance some 140m² of children's play space is provided for younger children within the proposed 69-unit scheme. Given the quality of communal amenity space to be provided within the woodland and the presence of St. Anne's Park directly adjacent to the site I consider the children's play space to be adequate.
- 7.70. However, I have serious concerns in relation to the accessibility of the playground and woodland communal open space area, which can only be accessed externally via a stair way to the north of Block B or from the second floor of Block B. The requirement for residents of Block A to enter Block B for access is not acceptable. If the Board are minded to approve permission it is recommended that a condition is imposed requesting plans of an external ramped access that is accessible to all residents of the scheme to the open space areas, details of this shall be agreed with the planning authority.
- 7.71. As mentioned above open space is to be provided to the north west and south west of the appeal site. A woodland area will form the large portion of the communal space

whereby existing holm oak to be retained will be supplemented by planting of native oak, a looped pathway will be provided within the proposed woodland with seating areas throughout. The DHPLG’s 2018 Design Standards for New Apartments requires a provision of 4m² for studios; 5m² of for 1- beds; 7m² for 2 beds; and 9m² for 3-beds. In this instance this would equate to an overall required quantum of 471m². The overall quantum of communal open space within the scheme is c. 2144sqm. This is considered to be acceptable and in accordance with the requirements of the Dublin City Development Plan.

7.72. Appendix I of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2018 requires the following standards to be provided in terms of private amenity space:

Studio	4sqm
One bedroom	5 sqm
Two bedroom (3 persons)	6 sqm
Two bedroom (4 person)	7 sqm
Three bedroom	9 sqm

7.73. The majority of two bed apartments are designed as three person units and provide for 6sqm of balcony area. I noted from the plans submitted that a small number of balcony areas provide slightly less than the minimum balcony areas required as set out above, however given the significant over provision of communal open space I am satisfied that the development overall provides for a high quality of amenity.

7.74. In addition to the foregoing, the Development Plan requires a provision of 10% of the site area, separate from the communal open space requirements, to be provided as accessible public open space – or if not being provided that then a payment in lieu be provided. The developer has proposed to make a payment in lieu of this lack of public open space. Given the location of the site directly adjacent to St. Anne’s Park I consider this proposed to be acceptable.

Other Matters

7.75. Issues have been raised by the appellants and the observers to the appeal in relation to matters concerning the opportunity to comment on further information. I note from

the information on file that the further information submitted was not considered to be significant and as such was not re-advertised. The issues raised in this regard are not a matter that the Board can adjudicate on.

- 7.76. It is also contended that the issuing of a spilt decision was not appropriate in this instance. Whilst I acknowledge the appellants concerns in this regard, the issuing of a spilt decision is permissible under Section 34 (b) of the Planning and Development Act 2000, as amended.
- 7.77. The appellants are concerned about the viability of the proposed living wall and have raised concerns regarding the adequate maintenance of this element of the scheme. The developer has responded to these concerns and states that the maintenance of this wall will form part of the overall maintenance of the scheme. I am satisfied that this issue can be adequately catered for by way of condition.

Conclusion

- 7.78. In conclusion, having regard to the foregoing assessment I have a number of concerns in relation to the proposed development. The developer has failed to justify the provision of 2 bedroom 3 bed space units throughout the scheme and as such the development as proposed would be contrary to the provisions of the 2018 DHPLG Apartment Guidelines. Any future application within the site should provide for a development whereby no more than 10% of the total number of units are 2-bedroom 3 bed space units.
- 7.79. The proposed development would appear overly dominant and overbearing when viewed from dwellings within The Oaks estate and to a lesser extent from properties along the Clontarf Road. Any future development should provide for an improved visual transition from the two storey terrace dwellings within The Oaks residential estate and development within the site.
- 7.80. The developer has also failed to adequately demonstrate that the proposed scheme would not impact protected bat species both within the site and the surrounding area. I also have serious concerns in relation to the impact of the development on the established woodland within the site and the adequacy of the measures proposed to protect this woodland. Any future application should reduce the number of trees to be removed and outline site specific tree protection measures to ensure that trees to be retained will be adequately protected.

8.0 Recommendation

8.1. I recommend that permission is refused for the following reasons:

9.0 Reasons and Considerations (1)

1. Having regard to the scale and massing of the proposed development, in particular Block B and its relationship with, and its proximity to, the adjoining two-storey terrace dwellings within The Oaks residential estate, it is considered that the proposed 5/6 storey apartment block would result in a significant loss of outlook for these adjoining properties and would appear overbearing when viewed from the rear private open space of these dwellings. The proposed development would therefore seriously injure the residential amenity of these properties and would be contrary to the provisions of the Dublin City Development Plan 2016-2022 and to the proper planning and sustainable development of the area.
2. The development proposed which provides for largely 2-bedroom 3 bed space units would be contrary to the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, Department of Housing, Planning and Local Government March 2018, which requires that such units do not exceed 10% of the total number of units in any private residential scheme. The proposed development would therefore be contrary to both the provisions of the said guidelines and the proper planning and sustainable development of the area.
3. The Board is not satisfied on the basis of the information provided with the application and appeal that the proposed development would not adversely affect Protected Bat Species and Bat habitat which has been recorded within the site. In such circumstances the Board is precluded from granting permission.

4. Having regard to the provisions of the Dublin City Development Plan 2016-2022 in particular Sections 16.3 'Landscaping' and 16.3.3 'Trees', it is considered that the extent of the loss of existing planting of mature trees, in this instance primarily Holm Oaks, would be excessive, and as such would seriously injure the visual amenities of the area contrary to the proper planning and sustainable development of the area.

Sarah Lynch
Senior Planning Inspector

13th July 2020