



An  
Bord  
Pleanála

## Inspector's Report ABP- 306378-20.

### Development

Partial demolition of the existing buildings and construction of two three storey buildings. Block A includes existing façade, a ground floor retail unit, new shopfront over basement, & two duplex units. Block B is for two duplex units and one apartment. Pedestrian access from Morehampton Road and pedestrian/services access from Marlborough Road.

### Location

83-85, Morehampton Road,  
Donnybrook, Dublin 4, (McCloskey's)

### Planning Authority

Dublin City Council

### P. A. Reg. Ref:

3961/19

### Applicant

Lisspopple Ltd.

### Decision

Grant Permission.

### Third Party Appellants.

- (1) Julie Gibb
- (2) Suzanna and Philip Doyle.
- 3) Frances Kavanagh

### Observers

- (1) P. Nannetti and M. Devereux
- (2) Michael Courtney
- (3) Eamonn Curley
- (4) Elaine Cogavin

### Date of Inspection

27<sup>th</sup> May, 2020.

### Inspector

Jane Dennehy

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	4
3.1. Decision .....	4
3.2. Planning Authority Reports .....	4
3.4. Third Party Observations .....	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. Development Plan.....	6
6.0 The Appeals (3).....	6
6.2. Applicant Response .....	9
6.3. Planning Authority Response .....	11
6.4. Observations (4).....	11
7.0 Assessment.....	13
8.0 Recommendation.....	17
9.0 Reasons and Considerations.....	<b>Error! Bookmark not defined.</b>
10.0 Conditions .....	<b>Error! Bookmark not defined.</b>

## 1.0 Site Location and Description

- 1.1. The site has a stated area of five hundred square metres and is that of the former McCloskey's public house, a Victorian brick faced mid terraced three storey over basement building, extended at the rear, and a garden and terrace on the west side of Donnybrook Road. The building is within a terrace of structures in mixed uses fronting onto Morehampton Road. To the north side of the application site is No 81 Morehampton Road which is in use as a café at ground floor level and commercial use via a separate entrance at upper level. To the south side is the Donnybrook Fair a grocer/delicatessen with a cookery school on the upper floors. This building has extensions at the rear. At the southern end of the terraces there is an access lane extending westwards and northwest serving commercial developments some of which are gated, and which include a two-storey commercial building at the rear of the application site.
- 1.2. Off Marlborough Road to the north west, there is gated laneway, adjacent to and beneath the first floor level of No 4 Marlborough Road, a Victorian two storey house in residential use with front and rear gardens to which there is a direct pedestrian entrance off the lane. The lane opens into space at the rear of no 81 Morehampton Road, adjoining the application site property in which there is disused single storey building, waste and other items and overgrown vegetation. No 2 Marlborough Road and the Allied Irish Bank building are located to the east side of the lane. to which there is a side entrance at the rear of the AIB Bank which is the corner building at the junction and No 2 Marlborough Road. Continuing westwards on both sides of Marlborough Road. There are Victorian houses in residential use which have front and rear gardens and several of them have been extended

## 2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for partial demolition of the existing building and extension, with retention of the existing façade and basement and for construction of two three storey buildings. Block A which is to incorporate the existing façade, with a new shopfront, and the basement is to accommodate two, two bedroom duplex apartments at first and second levels and, a ground floor retail unit over the basement, which has a stated floor area of 128

square metres. Block B which is to be located behind Block A is to provide for a three-bed apartment at ground floor level with two duplex units overhead. Access is to be provided in the form of a new pedestrian entrance off Morehampton Road and a new pedestrian / services access is to be provided via the existing lane over which there is a right of way to Marlborough Road. A raised courtyard to be provided at first floor level of Block A and all residential units are to be provided with balconies. The application also includes proposals for solar panels and for fifteen cycle spaces, bin storage and landscaping. No on site carparking is included in the application.

- 2.2. An additional information request was issued on 4<sup>th</sup> November, 2019 to which a response was received by the planning authority on 13<sup>th</sup> November, 2019. Clarification was provided with regard to the red line boundary of the application site and third-party consents, that no basement area extends beneath the public footpath and, that no works to the footpath are proposed.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

By order dated, 15<sup>th</sup> December, 2019 the planning authority decided to grant permission subject to conditions all of which are of a standard nature for mixed residential and retail development within an established urban area.

#### 3.2. **Planning Authority Reports**

- 3.2.1. The **report planning officer**, following the receipt of the further information submission includes and supplementary statement in which it is indicated satisfaction with the proposed development. A grant of permission is recommended.
- 3.2.2. The report of the **Transportation Planning Division** indicated recommendation for clarification to be ascertained with regard to the red line boundary extent of basement construction, and any implications below or above ground with regard to the public footpath. (This matter was addressed in the further information submission.) Otherwise no objection to the proposed development was indicated.
- 3.2.3. The reports of the **Drainage Division** and the **Waste Management Division** indicate no objection subject to conditions.

### 3.3. Third Party Observations

- 3.3.1. Submissions were lodged by several parties in which issues of concern raised include objections relating to right of way over the lane between the site and Marlborough Road and impact of the use of the right of the way, on the amenities and security of the property at No 4 Marlborough Road, overshadowing and overbearing impacts, traffic generation and parking.

## 4.0 Planning History

**P. A. Reg. Ref. 3255/18/PL: 302455** The planning authority decision to refuse permission for partial demolition of the existing building and construction of three buildings with one retail unit with basement storage and, seven residential units was upheld following appeal for reasons of (1) substandard quality and insufficient standards of attainable residential amenity having regard to the CDP and to Design Standards for Apartments: Guidelines for Planning Authorities, DOECLG, March 2018) in residential development within Z4 zoned lands, design issues and failure to satisfy Objective QH18 and Section 16.10 of the CDP which seeks to promote high quality apartment in sustainable neighbourhood and (2) Overdevelopment that is seriously injurious to residential amenities due to insufficient separation distances from adjoining development and potential for overlooking. (The Board's file is attached.)

**P. A. Reg. Ref.3906/17:PL 300446** The planning authority decision to refuse permission for partial demolition of the existing building and construction of three buildings with one retail unit with basement storage and, nine residential units was upheld following appeal for reasons of excessiveness in residential development within Z4 zoned lands, design issues and failure to satisfy Objective QH18 and Section 16.10 of the CDP which seeks to promote high quality apartment in sustainable neighbourhood developments. (The Board's file is attached.)

## 5.0 Policy Context

### 5.1. Development Plan

The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site comes within an area subject to the zoning objective Z4: *to provide for and improve mixed services facilities.*

Marlborough Road to the northwest, to which there is an access route comes within an area subject to the zoning objective Z2: *Residential Conservation Areas.*

Development management standards are set out in chapter 16 and the city council's housing policy is set out in chapter 5. According to policy objective QH 22, unless there is a strong design reason, new housing should have regard to character and scale of existing close to existing housing in the immediate surrounds.

The site location is within Area 3 at the edge of Area 2 for car parking standards have regard to Map J and table 16.1 of the CDP. The maximum parking requirement is 1.5 spaces per dwelling for Area 3.

### 5.2. Strategic Guidance:

Policies and standards for apartment development issued under Section 28 of the Planning and Development Act, 2000 as amended are in, "*Sustainable Urban Housing: Design Standards for New Apartments*" (2015) which most recently was updated and superseded in, "*Sustainable Urban Housing: Design Standards for New Apartments*" (2018) (Apartment Guidelines, 2018) These guidelines also take precedence over standards within the CDP

## 6.0 The Appeals

6.1. Appeals were received from their following three parties.

- (1) Julie Gibb
- (2) Suzanna and Philip Doyle.
- 3) Frances Kavanagh

Each of the appeal submissions is outlined below:

**6.1.1. (1) Julie Gibb**

An appeal was received from Ms Gibb of on her own behalf on 14<sup>th</sup> January, 2020 who states that she is the registered owner of the property No 4 Marlborough Road. According to the appeal:

- There should be no access from Marlborough Road. The applicant has not demonstrated legal right of way or Wayleaves over her property to the application site. Condition No 10 attached to the decision to grant permission should indicate that the laneway between the site and Morehampton Road is to be used for delivering bins to Morehampton Road. The proposed emergency services access via the lane from Marlborough Road is too close to the bin storage area.
- This unauthorised intensification for emergency use. The gate across the lane is kept locked, making it impractical as an escape route for fire. No fire strategy is included in the current application whereas one was included in the application under P. A. reg. Ref. 3255/18. The Donnybrook Fair premises uses a corridor direct to Morehampton Road. The lane was never used as an emergency access by McCloskeys or the others who have a legal right to use the lane will not be used construction access which is not acceptable.
- Permission should be refused because it is substandard and inappropriate backland development.

**6.1.2. (2) Suzanna and Philip Doyle.**

An appeal was received from Suzanna and Philip Doyle of on their own behalf on 14<sup>th</sup> January, 2020 and they reside at No 6 Marlborough Road. In the submission it is stated that in principle there is no objection to a residential development but that the current proposal is unacceptable. According to the appeal:

- Use of the lane between the site and Marlborough Road during the construction stage is complicated and is not acceptable. The lane is far too narrow for construction traffic.

- As the gate at the Marlborough Road end of the lane is locked future residents would not have access to and from the site via the lane. If it were to be used, there would be adverse impact on the amenities and security of No 4 Marlborough Road and the adjoining properties and.
- The right of access over the laneway has been and will continue to be challenged. No evidence of legal ownership on the part of the applicant has been demonstrated.
- The area at the junction of Marlborough Road and Morehampton Road is heavily used by pedestrians Unsatisfactory parking conditions on Marlborough Road would be exacerbated and risk of accidents would increase.
- The proposed development would seriously affect the amenities and the value of the property at No 6 Marlborough Road: Access to sunlight from the south would be obstructed by the three-storey block at the rear of the garden. The height of Block B would affect the rear facing rooms at the Appellant's house.
- The increase in the numbers of people who would have access to the laneway would result in anti-social behaviour on the lane.

It is also stated that:

- it is was not possible to employ a planning consultant and conduct a shadow study because a letter from the City council containing the decision of the planning authority was received on 14<sup>th</sup> December, 2020.
- That any development on the site should not involve use of the laneway between Marlborough Road and the site; include a construction management plan in the application as resolution by condition is not acceptable and Block B should be positioned as far as possible from the appellant property.

### 6.1.3. (3) **Frances Kavanagh**

An appeal was received from Keiran O'Malley and co. Ltd on behalf of Ms Kavanagh of No 2 Marlborough Road. According to the appeal:



- There is no legal evidence that there is a right of access over the lane to Marlborough Road. The applicant has not demonstrated legal right of way or Wayleaves over her property to the application site and has failed to do so in connection with the two prior applications for development on the site. An extract from a Section 131 response of 24<sup>th</sup> October is included in the submission. It includes a reference to declarations about an area at the rear of No 81 Morehampton Road which is defined as the Courtyard but which the Appellant claims does not form part of the property at Nos 83 and 85 Morehampton Road and as to rights of access without interruption.
- Access over the laneway should be excluded by condition if permission is granted. There is lack of clarity in the Notices as to the precise use of the laneway that is proposed here being references to a pedestrian service entrance exit and in the layout plan service emergency use only and a statement that bins will be collected from both Marlborough and Morehampton Road and the CMP refers only to Morehampton Road as a collection point.
- The proposed access over the lane would lead to intensification of its use through day and night-time hours, leading to noise, nuisance and trespass which would seriously affect the amenities of the appellant's property.
- Access and egress for residents and servicing should be to Morehampton Road only for any development on the application site. If permission is granted a condition should be attached to this effect. A draft condition is included in the submission.
- The proposed development would have a substandard level of amenity for residents and a lack of green space. The site is constrained and imposed on by the backland location and the physical mass of the existing surrounding buildings in a commercial area.

## 6.2. Applicant Response

A submission in response to the three appeals was received from the applicant's agent, OMS Architects on 13<sup>th</sup> February, 2020. The submission includes copies of the visualisations, drawings, a sunlight and daylight report, mobility management

plan, outline construction management plan, submitted with the application and a statutory declaration and indenture by Brian McCloskey.

- With regard to the dispute over a right of way over the access lane off Marlborough Road it is submitted that the issue is not a matter for adjudication by An Bord Pleanála but reference is made to the statutory declaration and indenture by Brian McCloskey included with the submission. It is submitted that lease documents relating to the application site includes a right of passage over the space and that it has been used for over forty years by owners staff and patrons of McCloskeys public, including use as a fire exit, deliveries and disposal of refuse.
- It is confirmed that it is not intended to use lane off Marlborough Road for construction access, all of which is to be via the Morehampton Road access route and is restricted to the standard construction hours as provided for under Condition No 11 attached to the decision to grant permission and provided for in Section 4.2 of the outline construction management plan.
- It is confirmed that the intended use of the lane off Marlborough Road does not constitute intensification of its use. Condition No 10 attached to the decision of the planning authority restricts transfer of bins to Morehampton Road therefore excluding use of the lane to Marlborough Road. It is to serve as an emergency exit for residents of five apartments and will no longer be used for deliveries or transfer of bins. The gate on the lane side is to remain locked. As a result, the proposed development will result in reduced use of the lane and improvement in the amenities and privacy of the adjoining residential property.
- A residential development on the site is consistent with the National Planning Framework in that it is to be within the existing built up area of the city for which there is an objective to deliver forty percent of future housing supply. The proposed design provides for high standards of amenity, including access to sunlight and daylight in spite of the site's constraints and with regard to, massing, height orientation, configuration, placement of windows and balconies.

- The proposed development, as demonstrated in the submitted Daylight and Sunlight Report will result in the rear garden so the properties on Marlborough Road receiving sunlight in excess of minimum recommended standards. At No 6 Marlborough Road at which seventy percent of the garden is shown to receive at least two hours of sunlight on 21st March pre development, 62 percent of the garden will receive sunlight for at least two hours on 21<sup>st</sup> March with the development constructed and in position.

The study demonstrates that over fifty percent of the space in the the rear gardens of Nos 2- 12 Marlborough Road will receive more than two hours sunlight on 21<sup>st</sup> March. It is stated that in all these scenarios the sunlight is not reduced to less than 0.8 percent as provided for in BRE guidance and the impact is negligible. Reference is also made to a remark in the report of the Inspector on the previous proposal that a degree of flexibility is warranted in relation not overshadowing in built up areas having regard to delivery of compact growth.

### 6.3. **Planning Authority Response**

There is no submission from the planning authority on file.

### 6.4. **Observations**

6.4.1. Submission were received from the following parties.

- (1) Paul Nannetti and Melissa Devereux
- (2) Michael Courtney
- (3) Eamonn Curley
- (4) Elaine Cogavin

Each of the observer submissions is outlined below:

#### **(1) Paul Nannetti and Melissa Devereux**

6.4.2. A submission was received on 17<sup>th</sup> January, 2020 according to which:

- The proposed development would overlook and would devalue their property at No 16 Marlborough Road.

- Existing congestion and crowding in the vicinity of the junction and along the narrow footpath would be exacerbated and hazard increased, especially by the proposed introduction of a bin collection point on Marlborough Road. Existing deficiencies in available parking would be also be seriously exacerbated.
- The issues as to rights of access over the laneway to Marlborough Road have not been resolved and it is unsuitable for construction traffic.
- The area is over-congested, and the proposed development is overdevelopment.

**(2) Michael Courtney**

6.4.3. A submission was received on 17<sup>th</sup> January, 2020 according to which:

- The proposed development would overlook the gardens at Mr Courtney's property at No 8 Marlborough Road and the bin storage would need careful management. It is a potential fire hazard. There is no clear and uninterrupted access for fire and other services in the event of emergency.
- Block B would be unacceptable but there is no objection to renovation of the existing building.

**(3) Eamonn Curley.**

6.4.4. A submission was received on 7<sup>th</sup> February, 2020 according to which:

- Block B would excessive in height, would be located twenty yards from and, would overlook and overshadow Mr Curley's property at No 6 Marlborough Road. This would be intolerable to Mr Curley who objects in the strongest terms possible.

**(4) Elaine Cogivan**

6.4.5. A submission was received on 17<sup>th</sup> January, 2020 from Ms Cogivan who is the owner of No 81 Morehampton Road the adjoining property at which Java café is

located on the ground floor and a physiotherapy practice is located on the first floor. According to the submission the proposed development would:

- Have adverse effect on the outlook from and the daylight access and diminish the business and the value of Ms Cogivan's property. Bedroom windows at Units 2 and 3 would overlook the back yard and the skylight at the Java restaurant and the first-floor therapy space would be intrusive.
- The existing small extension at McCloskey's at the rear projects onto the northern boundary over part of the rear right of way which serves Ms Cogivan's property. It is understood there is no title to this and not building on it could not be possible in the future. The existing structure is not represented in the sales document for McCloskeys.
- There can be no binding contract, that includes the premises at the rear known as 81 Morehampton Road... "as stated in the applicant's agent's letter of 1<sup>st</sup> December 2017 to the City Council. (A copy is attached.
- The applicant has not right and has not gained agreement of the owners to use of the laneway or to alter or extend the nature of its use. It is not suitable for Fire services access.

6.4.6. It is requested that whether the proposed development can provide satisfactory and safe accommodation for the future occupants that will not damage use and the enjoyment of adjoining properties be investigated. the property adjoining the application site property

## 7.0 **Assessment**

7.1. The issues raised in the three appeals and four observer submissions central to the determination of the decision and considered below are:

- Rights to and nature of access over the lane from Marlborough Road and impact on residential amenities.
- Nature of proposed use, overdevelopment. overshadowing and overlooking.
- Impact on Residential Amenities of adjoining properties.

- Impact on vehicular and pedestrian circulation and parking on Marlborough Road close to the junction with Morehampton Road.
- Environmental Impact Assessment
- Appropriate Assessment

## **7.2. Rights of Way to access over the lane from Marlborough Road.**

7.2.1. The copies Declaration and Indenture provided in the response to the Appeals have been reviewed. Based on review of the documents, it cannot be confirmed with certainty, without the benefit of legal advice, that the public house operated from Nos 83 and 85 Morehampton Road had rights of access across the space defined as “the Courtyard” at the rear of No 81 Morehampton Road and the lane to Marlborough Road. It is noted that the Declaration which would have been sworn before a Commissioner for Oaths does not include the date of the Declaration.

7.2.2. However, as is acknowledged by the applicant’s agent in the response to the appeal, resolution of legal matters is outside the remit of the Board. Further to review of the content of the submissions made in connection with the application and the appeal, it is considered that the proposed development, should permission be granted can be implemented. A note of the provisions of section 34 (13) of the Planning and Development Act, 2000 as amended to the effect that a grant of permission does not cover entitlement to implement a permitted development can be included with the Order if permission is granted.

## **7.3. Use of the lane from Marlborough Road and impact on residential amenities.**

7.3.1. The assertion by some of the third parties that the use of the lane would be significantly intensified at operational stage with increased movements to and from the site and that there would be potential for anti-social behaviour leading to security concerns and adverse impact on residential amenities of the houses along Marlborough Road and as to adverse effects of construction stage traffic and associated activities is not accepted. It has been clearly stated in the submission on behalf of the applicant and the outline construction management plan that all construction traffic will use the access lane off Morehampton Road and, that this route will also be the sole route at operational stage for services vehicles and

pedestrian and cyclist movements to and from the site, no onsite carparking being provided. The applicant's agent's has accepted, (in the response to the appeal) of the planning officer's view that the lane to Marlborough Road should not be used as a collection point for refuse, owing to the narrow width of the footpath and potential obstruction. The issue is resolved through the applicant's undertaking for the Morehampton Lane access route to be used for collection purposes and acceptability of a condition to this effect is noted.

7.3.2. The case made in the response to the appeal that the use of the lane to Marlborough Road and its impact on adjoining properties would be significantly reduced relative to that associated with the former public house business is accepted. The use of the route is proposed solely as an escape route in the event of fire with residents not being keyholders to the gates at Marlborough Road. Given the commitment given in the application, attachment of conditions for purposes clarification in this regard, similar to those attached to the planning authority is reasonable, if permission is granted.

#### **7.4. Nature of proposed use, overdevelopment, overshadowing and overlooking.**

7.4.1. There is no objection to the proposed use mix in the application, having regard to the 'Z4' zoning objective although it is contended in third party submissions that there is over development by reason of the insertion of the two three storey blocks into the site and overrepresentation of residential development. The proposal provides for continuation of local neighbourhood centre uses, within a similar footprint, that contributes to the vitality of the neighbourhood in replacement of the former public house use.

7.4.2. Intensive residential development in principle is appropriate for an inner suburban area close to services and facilities subject to good qualitative standards being achieved for the units. Flexibility in the application of open space standards is reasonable for locations in close to outdoor passive recreational facilities such as Herbert Park. It is agreed with the planning officer that the attainable standards of residential amenity for future occupants for configuration and size of internal habitable accommodation, private and communal open space provision, access to daylight and sunlight, (for which a daylight and sunlight assessment report was provided) separation distances and privacy are satisfactory and in accordance with

the standards set out in, “*Sustainable Urban Housing: Design Standards for New Apartments*” (2018)

#### **7.5. Impact on Residential Amenities of adjoining properties.**

- 7.5.1. The methodology for the assessment having regard to BRE standards is clearly explained in the submitted Daylight and Sunlight Report is appropriate and reasonable. According to the submission, having regard to BRE standards, negligible impact is established where a minimum of fifty percent of rear gardens receives sunlight for two hours or more on 21<sup>st</sup> March and new development results in a reduction relative to the pre development scenario of no less than 0.8 times the former size of the area in sunlight. Having regard to the foregoing, the results in the submitted report, in respect of all six properties, (Nos 4-12 Marlborough Road) which shows that the changes in sunlight over the rear gardens with the proposed development *in situ* is negligible is persuasive and considered reasonable.
- 7.5.2. The site is confined and restricted but it has the capacity to accept the proposed development in view of its design, qualitative standards and compatibility with surrounding development resulting in good standards of residential amenity for future occupants and negligible impact on amenities of residential properties on Marlborough Road.

#### **7.6. Impact on vehicular and pedestrian circulation and parking on Marlborough Road close to the junction with Morehampton Road.**

- 7.6.1. It is agreed with the third parties, particularly the occupant of No 2 Marlborough Road that the junction of Marlborough and Morehampton Roads is heavily used by all road users, especially at peak times. It is acknowledged that some demand for use of the pay and display parking facilities attributable to the proposed development could arise. However, it is considered that the proposed development would have negligible impact on existing parking demand and on safe and free flow of vehicular and pedestrian movements at the junction as all access is either directly off Morehampton Road (for the retail unit) or, along the lane between the site and Morehampton Road at the end of the terrace to the south east.

#### **7.7. Environmental Impact Assessment**

- 7.7.1. Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no



real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 7.1. **Appropriate Assessment**

- 7.1.1. The site is that of vacant public house within a terrace of a late nineteenth century building with an extension to the rear on Morehampton Road. The buildings are connected to existing services. The project entails demolition of the majority of the existing buildings, site clearance, excavation, and construction retail unit at ground floor level and five dwelling units in two blocks. Having regard to the nature and scale of the development and the location within the central city area it can be concluded that no appropriate assessment issues arise. The proposed development therefore would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 **Recommendation**

- 8.1. In view of the foregoing it is recommended that the decision of the planning authority to grant permission be upheld. Draft Reasons and Considerations and Conditions follow.

Having regard to:

- the Dublin City Development Plan 2016-2022 according to which the site is within an area subject to the zoning objective Z4: *To provide for and, improve mixed service facilities*
- the provisions of the *Sustainable Urban Housing - Design Standards for New Apartments – Guidelines for Planning Authorities*, issued by the Department of the Environment, Community and Local Government in 2018,
- to pre-existing use of the existing building as a public house which lies vacant and,
- the scope for delivery of compact sustainable urban infill residential development as prescribed in current national policy and strategic guidance.

It is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities, architectural character and residential amenities of the area or the future occupants of the proposed development, would be acceptable in terms of pedestrian and traffic safety and convenience, and, would be in accordance with the proper planning and sustainable development of the area.

## 9.0 Conditions.

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including construction traffic routing and management which shall be via the lane off Morehampton Road, (adjacent to No 105), construction parking, materials storage, noise management measures and off-site disposal of construction/demolition waste.

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

3. A plan containing details for the management of waste, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development. All transfers of waste and recyclable materials shall be via the lane off Morehampton Road, (adjacent to No 105). Marlborough Road shall not be used as a collection point. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

4. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

5. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

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

6. Details of the proposed arrangements for hard and soft landscaping and boundary treatment, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenities.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services.

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

- 10 The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

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

8. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no additional development shall take place at roof level, including any lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorized by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area, and to permit the planning authority to assess any such development through the statutory planning process.

9. Proposals for a name and numbering scheme and associated signage for the proposed development shall be submitted to and, agreed in writing with the planning authority prior to commencement of development.

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

10. The management and maintenance of the proposed development, following its completion, shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of open spaces, roads, parking spaces and circulation areas shall

be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

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

12. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the

Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

**Jane Dennehy.**  
Senior Planning Inspector.  
28<sup>th</sup> May, 2020.