



An
Bord
Pleanála

Inspector's Report ABP-307122-20.

Development	Demolition of existing 2 no. storey community building and tennis court and construction of 28 no. apartments with an overall height of part 4, part 5 no. storeys (over basement).
Location	The Pavilion, 204-205 Merrion Road, Dublin 4, D04 EC86.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	4461/19.
Applicant(s)	Brian Kennedy.
Type of Application	Permission.
Planning Authority Decision	Grant with Conditions.
Type of Appeal	Multiple Third Party
Appellant(s)	Louise McCauley John & Mary Glynn Merrion Village Residents Assoc. Residents of Block 3, Merrion Village Breeda Jones
Observer(s)	Michael & Mary Andrews.
Date of Site inspection	20 th July 2020
Inspector	A. Considine.

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports.....	6
4.0 Planning History.....	9
5.0 Policy and Context.....	11
5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018.....	11
5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):.....	12
5.3. Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, (DoHPLG, 2018):.....	13
5.4. Urban Development and Building Heights Guidelines for Planning Authorities December 2018.....	13
5.5. Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013	14
5.6. Development Plan.....	14
5.7. Other Policy & Guidance Documents	16
5.8. Natural Heritage Designations	16
5.9. EIA Screening	16
6.0 The Appeal	16
6.1. Grounds of Appeal	16
6.2. Applicant Response	20
6.3. Planning Authority Response	21

6.4. Observations 21

6.5. Other Submissions..... 21

7.0 Assessment 24

7.1. Principle of the development & Planning History..... 25

7.2. Compliance with National Guidelines & Standards, the County Development
Plan & General Development Standards: 27

7.3. Visual & Residential Amenity Impacts..... 37

7.4. Roads & Traffic 39

7.5. Water Services..... 41

7.6. Other Issues..... 45

7.7. Appropriate Assessment 46

8.0 Recommendation..... 47

9.0 Reasons and Considerations..... 47

1.0 Site Location and Description

- 1.1. The subject site is located within the overall grounds of the Merrion Village residential development. Merrion Village includes a variety of residential properties, including town houses and apartment blocks. The existing apartment buildings rise to between 3 and 5 stories and Merrion Village is a well-established gated development, with a gate lodge for security personnel at the entrance to the development.
- 1.2. The site lies to the rear (east) of the properties which front onto the Merrion Road, including the Merrion Inn and the Circle K service station. St. Johns House, a retirement home, lies to the south of the site, also fronting onto Merrion Road. St. Vincent's University Hospital lies across the road and the wider area comprises a mix of uses including the Merrion Shopping Centre to the west, schools and residential areas. The Catholic Church lies to the east of the existing entrance into Merrion Village. This access road is in private ownership.
- 1.3. The area the subject of this appeal comprises the original amenity facilities constructed as part of the overall residential development. The site is currently occupied by a tennis court and a community pavilion building, currently unused, which includes a swimming pool and gym, an area of green space and a small hard stand area used for car parking. This area is accessed from Merrion Village via a pedestrian path.
- 1.4. The site has a stated area of 0.2522ha. The stated floor area of the Pavillion building to be demolished is indicated at 390m².

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the demolition of existing underutilised 2 no. storey building (390 sqm) and tennis court and the construction of a residential development of 28 no. apartments with an overall height of part 4, part 5 no. storeys (over basement) comprising: 12 no. 1 bedroom apartments, 13 no. 2 bedroom apartment and 3 no. 3 bedroom apartments (with private balconies/terraces at each floor level) and a ground floor gym (c. 159 sqm). Vehicular and pedestrian access will be provided from Merrion Road into a basement which will provide 28 no.

car parking spaces (1 no. disabled access), 44 no. cycle space and all ancillary areas, with 2 no. disabled parking spaces and 12 no. visitor bicycle parking spaces at surface level; all associated site development works, hard and soft landscaping and all other ancillary works to include provision of an area of communal landscaped open space, with pedestrian access provided to the north east. The total gross floor area proposed is c. 2,213sqm, all at The Pavilion, 204-205 Merrion Road, Dublin 4, D04 EC86

2.2. The application included a number of supporting documents including as follows;

- Plans, particulars and completed planning application form
- Cover letter
- Planning Report
- Part V Letter of Validation
- Letter of owners consent
- Architectural Design Statement
- Building Life Cycle Report
- Daylight and Sunlight Analysis Report
- Traffic & Transport Assessment
- Engineering Planning Report and Engineering Drawings
- Construction Management Plan
- Flood Risk Assessment
- Appropriate Assessment Screening Report

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 16 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The initial Planning Report concludes that further information is required in relation to the development in terms of roads issues, quality of the 1 bed units and clarification is sought in terms of the intended use of the proposed gym facility.

Following the submission of a response to the FI request, the final planning report concludes that proposed development is acceptable. The Planning Officer notes the report of Irish Water but concludes that as the applicant has already gone through the process of responding to an additional information request, and that the IW issue was not raised as an issue, a condition should be attached that the development cannot commence until an agreement has been reached with IW. The planning officer recommends that permission be granted for the proposed development, subject to 16 conditions.

This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

3.2.2. Other Technical Reports

Waste Management Division: Report provides recommended conditions.

Roads, Streets & Traffic Department: The initial report required the submission of further information in relation to the vehicular access off Merrion Road and the impact on the footpath and bus lane, car parking layout and cycle parking, access for services and refuse vehicles to be clarified and clarification on the relocation or retention of the existing substation. Finally, the applicant is required to clarify if the proposed gym will be available for public access.

Following the submission of a response to the FI request, the Roads, Streets & Traffic Department advises no objection subject to compliance with conditions.

Drainage Division: No objection subject to compliance with conditions.

Following the submission of a response to the FI request, the Drainage Division advises no change to the original report.

3.2.3. Prescribed Bodies

Irish Water: Notes that there are two large combined sewers crossing through the site. IW requests that the developer discuss the foundation options with them.

Following the submission of a response to the FI request, Irish Water recommends refusal of permission for the proposed development for the following reasons:

1. the development will have a detrimental impact on IWs ability to complete future maintenance on two critical infrastructure assets.
2. the proposed design does not comply with IWs Codes of Practice.
3. the asset can neither be relocated or adequately protected from the development. It is illegal to build over a public water main or public sewer without permission from IW. The development would be prejudicial to the sustainability of the public water / wastewater supply.

3.2.4. Third Party Submissions

There are 18 no. third party objections/submissions noted on the planning authority file, including 1 with multiple signatories. The issues raised are summarised as follows:

- Visual Impact
- Roads and traffic issues, including access and parking
- Scale of the development

- Loss of amenities developed with the original planning permission including communal open space which serves the existing Merrion Village development
- Impact on residential amenity by reason of impact on light, overshadowing and overlooking
- Impact on sale / rental of existing properties
- Density of development and overdevelopment of the site.
- Inadequate provision and quality of useable private open spaces
- Impacts arising during construction phase.
- The Pavilion has operated as a commercial entity but has failed to contribute to the service charge associated with the overall development under the Multi-Unit Development Act 2011.
- The use of the Pavilion breached planning conditions under reference 660/82 (1471/81) which provided that the amenity block was to be used primarily for recreational purposes to serve the residents of the overall residential development known as Merrion Village. This amenity was a feature on the marketing material for the development.
- The current application is a stand-alone application and has nothing to do with the neighbouring Merrion Village development. As the Pavilion no longer exists as envisaged, the pedestrian access to Merrion Village automatically ceases.
- The proposed development cannot encroach on a separate and private entity as envisaged in the submitted planning reports from the applicant. There are a number of inaccuracies in the submitted reports.
- Display of site notices was inadequate.
- The development does not address the existing right of way enjoyed by residents through the site from Merrion Road.
- Screening to penthouse balconies should be installed to prevent overlooking
- The development will result in the removal of mature trees which is questionable.

- Flood issues
- Increased residential densities and a more intensive use of land should not be achieved at the expense of neighbouring residential amenity.
- The entire proposed site is the green space for the much larger complex of Merrion Village. The existing residents of Merrion Village have a legitimate expectation that the amenity space should remain in use as provided for in the original development.
- Issues raised in terms of accuracy of dimensions on the plans submitted.
- The description of the building as underutilised is irrelevant and it is only so by choice of the landowner.

4.0 Planning History

There is no recent planning history pertaining to the subject site. The original application for Merrion Village was submitted for permission under PA file ref: 4020/78 and included 9 two storey houses and 87 apartments in 5 blocks.

PA ref: 1471/81: Permission sought for alterations to approved blocks E and F and indoor recreational centre. Condition 4 of this permission provided that the recreational amenity block was to be used only for recreational purposes as indicated and only for the residents of the overall Merrion Village residential development of which it forms part. This decision specifically excluded the use of this building for general commercial public use.

PA ref: 660/82: Permission sought for alterations to the recreation and amenity building. Condition 4 of this decision provided that the block shall only be used for recreational purposes and that the 'pool hall' shall be used to accommodate a swimming pool and shall not be used for the playing of snooker, billiards, pool or other similar table top games. Condition 5 of this decision amended the previous condition 4 of 1471/81 providing that the recreational amenity block shall be used primarily to serve residents of the overall Merrion Village residential development of which it forms part. This decision further states that the building shall not be open to the general public on a casual 'pay as you use' basis but facilitated limited membership to persons not resident in Merrion Village.

It is also noted that a pre-planning meeting was held to discuss the re-development of the site due to the removal of tennis court etc.

Adjacent site:

PA ref: 0193/01: Permission refused to demolish 5 no. existing semi-derelict cottages and replace with 4 no. 1 bed apartments on ground floor and 4 no. 2 bed 2 storey apartments over on first and second floor. Retaining existing vehicular access from Merrion Road with new boundary treatment and security gate to front.

Permission was refused for 2 reasons relating to inadequate open space and car parking as well as scale and height. In addition, the development was refused as it would be located over the trunk sewer serving Dun Laoghaire Rathdown.

PA ref: 3320/01: Split decision issued in relation to the demolition of 5 no. existing semi-derelict cottages and for the construction of 3 no. houses and 3 no. apartments. Permission was granted for the demolition of the cottages but refused for the construction of residential units.

ABP ref PL29S.206266 (PA ref: 5636/03): Permission refused by Dublin City Council and on appeal by the Board for the construction of terrace of 6 two/three-storey, two and three bedroom townhouses, with existing vehicular access from Merrion Road retained; on-site parking for 6 cars; with associated site works, boundary treatment including new security gates and landscaping at 1 to 5 Lennon's Cottages, Merrion Road, Dublin 4.

ABP ref PL29S.211866 (PA ref: 1302/05): Permission refused by the PA for development comprising a new terrace of 3 no. town houses comprising 2 no three storey two bedroom town houses, with terrace on first and second floor and 1 no two storey one bedroom house, with existing vehicular access from Merrion Road retained; on-site parking for 5 no. cars; with associated site works, new access gateway to rear of 186 Merrion Road, boundary treatment including new security gates and landscaping, all on a site of area 563 sq.m at 1 to 5 Lennon's Cottages, Merrion Road, Dublin 4, for R. Kennedy and T. Darcy.

The Board, on appeal, granted permission subject to 5 conditions including the following:

4. A revised layout and landscape drawing shall be submitted to the planning authority for agreement showing a landscaped buffer strip not

less than 2.5 metres deep in place of the car parking space adjoining the site boundary at Merrion Road. A replacement car parking space shall be provided adjoining the proposed car parking spaces at the rear of the site. The landscaped buffer strip shall be planted with suitable species of shrubs and a deciduous tree (s).

Reason: In the interest of the visual amenity and proper planning and sustainable development of the area.

The Board will note that the currently proposed development site also includes land associated with the development of Lennon's Cottages described above, to the west of the site. The current appeal site will include the area to the rear of the town houses (when viewed from Merrion Road) and will include the area of communal open space and 2 car parking spaces (which Condition 4 of the pp relates and requires 3 spaces), as well as an area of private open space associated with house no. 3. The area of the previously permitted development at Lennon's Cottages to be subsumed into the subject site will now provide 2 of the 3 disabled car parking spaces associated with the proposed development. No useable open space or parking spaces to the rear of the site are retained for the Lennon's Cottages development. It would also appear that Condition 4 of the above grant of planning permission has not been complied with.

5.0 Policy and Context

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

The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. Objective 3b seeks to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford. Objective 11 favours development which can encourage more people to live or work in existing settlements while Objective 27 seeks to prioritise walking and cycling accessibility to existing and proposed development.

The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:

- National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.
- National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.

National Planning Objective 13 provides that “in urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

5.2.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

5.3. Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, (DoHPLG, 2018):

- 5.3.1. These statutory guidelines update and revise the 2015 Sustainable Urban Housing: Design Standards for New Apartments Guidelines. The objective is to build on the content of the 2015 apartment guidance and to update previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines.
- 5.3.2. The primary aim of these guidelines is to promote sustainable urban housing, by ensuring that the design and layout of new apartments will provide satisfactory accommodation for a variety of household types and sizes – including families with children - over the medium to long term. These guidelines provide recommended minimum standards for:
- floor areas for different types of apartments,
 - storage spaces,
 - sizes for apartment balconies / patios, and
 - room dimensions for certain rooms.
- 5.3.3. The appendix of the guidelines provides guidance in terms of recommended minimum floor areas and standards.

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

- 5.4.1. The guidelines encourage a more proactive and more flexible approach in securing compact urban growth through a combination of both facilitating increased densities and heights, while also mindful of the quality of development and balancing the amenity and environmental considerations. Building height is identified as an important mechanism to delivering such compact urban growth and Specific Planning Policy Requirements (SPPRs) of the building height guidelines take

precedence over any conflicting policies and objectives of the Dublin City Development Plan.

5.5. **Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013**

5.5.1. In terms of the design of the proposed development, including the entrance and access to the site, it is a requirement that they be considered against the Design Manual for Urban Roads and Streets (DEMURS), DoTTS, March 2013. This Manual replaces DMRB in respect of all urban roads and streets and it does not differentiate between public and private urban streets, where a 60kph speed limit or less applies. The implementation of DMURS is obligatory and divergence from same requires written consent from relevant sanctioning authority (NRA, NTA or DTT&S). The Manual seeks to address street design within urban areas (i.e. cities, towns and villages) and it sets out an integrated design approach.

5.6. **Development Plan**

5.6.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site is zoned R2 Zone Z1: Sustainable Residential Neighbourhoods in the Dublin City Development Plan 2016-2022 which seeks “To protect, provide and improve residential amenities”. The lands to the west of the site are zoned R2 Zone Z2: Residential Neighbourhoods (Conservation Areas) in the Dublin City Development Plan 2016-2022 which seeks “To protect and/or improve the amenities of residential conservation areas”.

5.6.2. Chapter 10 of the City Development Plan deals with Green Infrastructure, Open Space and Recreation. The following policies are considered relevant:

GI10: To continue to manage and protect and/or enhance public open spaces to meet the social, recreational, conservation and ecological needs of the city and to consider the development of appropriate complementary facilities which do not detract from the amenities of spaces.

GI13: To ensure that in new residential developments, public open space is provided which is sufficient in quantity and distribution to meet the requirements of the projected population, including play facilities for children.

5.6.3. In terms of Building Height, Section 16.7.2 of the Development Plan sets out 3 no. height category limits for the city, Low-rise, Mid-rise and High-rise. The subject site is located within 'Rail Hub', being located within 500m of the Sydney Parade Dart station, which is an area listed within the low – rise (up to 24m) height category. The plan includes a number of policies in relation to building height as follows:

SC16: To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA).

SC17: To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, having regard to the criteria and principles set out in chapter 15 (guiding Principles) and Chapter 16 (development standards). In particular, all new proposals must demonstrate sensitivity to the historic city centre, the river Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city canals, and to established residential areas, open recreation areas and civic spaces of local and citywide importance.

SC18: To promote a coordinated approach to the provision of tall buildings through local area plans, strategic development zones and the strategic development and regeneration areas principles, in order to prevent visual clutter or cumulative negative visual disruption of the skyline.”

5.6.4. In terms of Transportation and car parking, the site is located within Zone 2 which requires a maximum of 1 car parking space per dwelling, and 1 cycle space per unit.

5.6.5. In terms of Development Standards, the following sections of the Plan area relevant:

- Section 16.3.4 – Public Open Space – All Development. There is a 10% requirement specifically for all residential schemes as set out in Section 16.10.1
- Section 16.5 - Plot ratio 0.5-2.0
- Section 16.6 - Site Coverage 45% - 60%

5.7. Other Policy & Guidance Documents

- Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
- DEHLG and OPW Guidance 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' (2009).

5.8. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(site code 00210) and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) which are located approx. 300m to the east of the site.

5.9. EIA Screening

Having regard to nature and scale of the development, together with the urban / built nature of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a multiple third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The issues raised reflect those raised with the PA during their assessment of the proposed development and are summarised as follows:

6.1.1. Mrs. Louise Macauley

- Loss of amenities built as part of the original permission and subject to associated planning conditions.
- Roads and traffic issues including further traffic congestion on Merrion Road.
- Inadequate car parking.

- Overdevelopment of the area which already carries a very high density of development.
- Impacts on visual and existing residential amenities, as well as future residents, by reason of overlooking, visual intrusion, light and noise pollution.
- Disruption during the construction in terms of traffic, noise and dust.
- Consideration of the submitted information suggests that there is no demonstratable benefit to the overall amenities of Merrion Village. Rather, the development erodes the amenities both quantitatively and qualitatively as a result of the loss of open space and facilities, and the overshadowing of residual open spaces and apartments in Merrion Village.

6.1.2. John & Mary Glynn

- Inadequate car parking which will put pressure on street parking.
- Traffic movements are underestimated give the existing flows from the existing units adjacent to 186 Merrion Road and 186 Merrion Road itself.
- Insufficient green space for existing Merrion Village and the original development made a point of the leisure facilities that the Pavilion and tennis court would provide.
- No proposals for 20% social housing in the scheme.
- Large development in an already highly developed area.

6.1.3. Armstrong Planning on behalf of Residents of Block 3 Merrion Village (multiple signatories)

- Cannibalisation of existing public open space, contrary to the conditions of the parent permissions, 3971/81 and 4657/82 refer.
- When the existing open space is omitted from the proposed site, the actual density of the scheme is closer to 128 units/ha, far in excess of the 50 recommended in the planning guidelines.
- Over the years, the Pavilion and tennis court amenities have been curtailed in a piecemeal fashion, but it now seems that even the open space, enjoyed by

residents for over 30 years, is also to be incorporated into the new development.

- Significant impact on residential amenity. While accepting the promotion of increased densities, it is noted that all policies supporting increased densities and higher buildings are couched in terms of protecting existing residential amenities.
- Impacts will include as follows;
 - Overlooking – Block 3 of Merrion Village is located 16m from the proposed five storey structure, significantly below the recommended 22m required for housing development.
 - Impact on daylight and sunlight – Block 3s existing south facing balconies currently enjoy direct sunlight throughout the day at all times of the year. The proposed development will exceed the BRE threshold for 8 out of 17 windows due to the proposed development, and no skyline test was carried out. This will have a negative impact on existing residential amenity. In addition, the development will overshadow the area of open space which will render it dark and uninviting, and less useful as an amenity space.
 - Overbearing and sense of enclosure – Block 3, the closest component of Merrion Village to the proposed development is a four storey building which rises to approximately 13m in height. The proposed development, at 19m in height at parapet level, is far taller than this block. Also, the blank brick façade presented at the northern elevation will create an unattractive, bland brick façade with an overbearing sense of enclosure. Balconies at proposed 4th level afford uninterrupted views into the private open spaces and habitable rooms of Block 3 residents on all floors of the existing building.
 - Impacts on general amenity – the developments impacts on the general amenities of the existing residents will also affect the value of the apartments in Block 3 Merrion Village.

- The proposed north facing balconies in the proposed development do not comply with Section 16.10.1 of the Development Plan in terms of Residential Quality Standards for apartments as they will not have a sunny aspect, will overlook and overshadow existing properties.
- The development will block access to two critical Irish Water infrastructure assets, which cannot be relocated or adequately protected from development. IW have recommended refusal of permission.

6.1.4. Future Analytics Consulting Ltd on behalf of Ms. Breeda Jones

- The development would materially contravene the parent permission for the site reversing the lands for amenity use for the Merrion Village. The appeal cites a number of precedent cases whereby the Board has refused permission for development on lands reserved for open space or recreational purposes as part of a wider development.
- DCCs decision disregards Irish Waters recommendation to refuse due to the impact on critical infrastructure.
- The proposed development would be contrary to the zoning objectives for the area by reason of overdevelopment and does not seek to protect and improve existing residential amenity.
- The proposed development is substandard in terms of open space, private residential amenity, poor elevational treatment and separation distances between dwellings.
- The proposed development is substandard in terms of car parking provision.

6.1.5. Merrion Village Residents Association

- The developer has failed to address the loss of sunlight and daylight on existing homes.
- The removal of existing green space as designated in the original planning permission.
- The sports complex has only become underutilised because of the breach of permission.
- Application raises major safety implications.

- Vehicular access issues.
- Ownership of the common areas in Merrion Village is vested in the owners of the townhouses and apartments of Merrion Village.
- The proposed gym is unrealistic.
- IW issues
- Flooding and insurance implications
- Impacts of proposed building works on existing residents.

6.2. Applicant Response

The first party submitted 3 responses to the third-party appeals. The submissions seek to respond to the appeals and are summarised as follows:

- The development will introduce a high-quality residential development at a highly accessible strategic location which replaces an underused building and make a positive contribution to the urban environment.
- It makes optimum use of a brownfield land resource.
- The development will continue to provide an element of recreational activity in the form of a gym and studio.
- The development will consolidate residential land and will increase density.
- The development is compliant with national and local policies.
- The site is well located in respect of local amenities with a range of recreational facilities within 1.5km of the site, easily reached on foot and bicycle, as well as public transport.
- The scheme provides 48% of the site for landscaped open space.
- The concerns raised in third party appeals are acknowledged and were addressed at FI stage.

The response includes a copy of the Traffic & Transport Assessment and response to the FI request as well as the Daylight & Sunlight Analysis report.

6.3. **Planning Authority Response**

None.

6.4. **Observations**

There is 1 observation submitted which supports the third-party appeals. The Observation submits that the community amenity facilities on the site should be strongly defended by the Board. The submission also refers to issues relating to overshadowing, overlooking and roads and traffic issues.

6.5. **Other Submissions**

- 6.5.1. The Board sought comment from both Irish Water and the NTA.
- 6.5.2. Irish Water submitted a letter, dated 23rd September 2020, which restates their concerns in terms of the proposed development and its potential impacts on their assets which cannot be relocated. It is restated that the development as proposed, materially compromise the assets and requires redesign. This redesign should be agreed with IW prior to submission to the Planning Authority. IW have agreed to engage with the applicant to support any new design to achieve the required separation distances.
- 6.5.3. The report concludes that without the relocation of the development in respect of the Irish Water assets, the development would be prejudicial to the sustainability of the public water / wastewater supply and would impact IWs ability to ensure adequate provision of water and wastewater facilities.
- 6.5.4. On the 2nd October, the Board circulated the Irish Water submission to the relevant parties and seeking any submissions in relation to same to be submitted to the Board by the 22nd October 2020. The following submissions were received:
- | | |
|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| John & Mary Glynn: | The submission states that they strongly agree with Irish Water. |
| Mary T. Devine: | On behalf of the Merrion Village Residents Association, Ms. Devine supports the concerns of IW and requests the ABP refuse permission for the development. |

Armstrong Planning: On behalf of the residents of Block 3, Merrion Village, Armstrong Planning seek to fully endorse and support IWs need to protect and provide maintenance access for the significant infrastructure.

It is requested that this issue be added to the objections previously raised and request that permission be refused for the development.

First Party: The first partys response to the Irish Water submission notes that the applicants consulting engineers engaged with IW with a view to agreeing a solution to the issues raised. Amended proposals were submitted to IW for an internal meeting on the 20th October, which proposed a separation distance of 4m to the south side and 6m to the north side of the IW assets to permit sufficient access for maintenance into the future.

The solution has implications for the design of the development, including the relocation of the north west elevation of the building south by 4m and a reconfiguration of the apartments to the north west of the building. The number of apartments will remain at 28 and will now include 1 studio, 16x1 bed and 11x2 beds. The 3 bed units are omitted.

In addition to the above, a further alternative design solution was presented in sketch form, providing for 6m separation distance to the IW assets. This alternative will result in the loss of 1 unit, giving a total of 27 apartments, comprising 5 x studios, 14x1 beds and 8x2 beds.

It is submitted that IW was expected to issue a response to the submitted proposal on the morning of the 22nd of October, but this had not issued as of 1600 on the day (last day for submissions to ABP).

6.5.5. Following receipt of the first party response to the Irish Water submission, the Board circulated the response to all relevant parties. It was requested that any submissions or observations be submitted on or before the 23rd November 2020.

6.5.6. The following submissions were received:

Mary T. Devine: On behalf of the Merrion Village Residents Association, Ms. Devine submits all blocks in the adjacent Merrion Village development have been kept at a 6m distance minimum from the large drainage sewer pipes and that they are not satisfied that the latest proposals protect or maintain the main sewers in the area.

The laneway to be used for traffic during the construction phase, and the vibration from extraction and works below ground levels, are a serious matter of concern. The danger and fear is the fracturing of the main sewer pipes which would have a major impact on the 143 units in Merrion Village. Even after construction, the site will still be subject to ongoing traffic of heavy vehicles on a regular basis. Concern is also raised in relation to the reference to the 'proposed updated design'.

John & Mary Glynn: Restates concerns raised in the appeal including issues relating to inadequate car parking, roads and traffic issues, inadequate green space for existing Merrion Village and the Pavilion was presented as the leisure facilities, no social housing proposals in the scheme, it is a large development which will be constructed at the same time as the new maternity hospital which will add to the disruption and noise and insufficient room is allowed for maintenance of the major sewage pipe going through the site.

Joan O'Beirne: Ms. O'Beirne, the Director of the Merrion Village Management (Phase 5) CLG, notes that it is understood that as of the afternoon of the 23rd November 2020, Irish Water had not officially responded or approved in writing the revised proposals for the site as detailed in their letter of the 22nd October 2020.

Therefore, the revised proposals have not been approved by IW and ABP should refuse permission.

KMPG Future Analytics: On behalf of Ms. Breeda Jones, the submission noted that on the day of writing, Irish Water had not revised or amended its formal opinion that permission should be refused.

Irish Water: The applicant has engaged with IW regarding revised designs proposal to achieve the required separation distances. IW have no objections to the amended proposals subject to compliance with conditions, appropriate separation can be achieved thus protecting the assets and providing appropriate access into the future.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development & Planning History
2. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards
3. Visual & Residential Amenity Impacts
4. Roads & Traffic
5. Water Services
6. Other Issues
7. Appropriate Assessment

7.1. Principle of the development & Planning History

- 7.1.1. Having regard to the location of the subject site, on serviced lands zoned for residential purposes together with the proximity to public transport, retail, community and social facilities, it is reasonable to conclude that in principle, the development of the site for residential purposes is acceptable. The principle, however, is subject to all other planning considerations including issues relating to roads and traffic, visual and residential amenities, water services and other considerations.
- 7.1.2. Notwithstanding the above, the Board will note that the site, the subject of this appeal, comprises primarily, the open space and amenity facilities which forms part of the larger Merrion Village residential development. The original grant of permission for Merrion Village includes a large part of the subject site, approximately 0.2ha, for such amenity purposes. In addition, the proposed site includes the shared surface area, 3 car parking spaces and the communal open space area associated with the redevelopment of the Lennon's Cottages site, as well as a permitted area of private open space.
- 7.1.3. Merrion Village was granted planning permission in the late 1970s. In the early 1980s, permission was granted for amendments to the approved apartment blocks, PA ref: 1471/81 refers, and Condition 4 specified that the recreational amenity block was to be used only for recreational purposes as indicated. This amenity block was the subject of a further planning application under PA ref 660/82 where Condition 4 stipulated that the block shall be used to accommodate a swimming pool and shall not be used for the playing of snooker, billiards, pool or other similar table top games. Condition 5 provided that the recreational amenity block shall be used primarily to serve residents of the overall Merrion Village residential development of which it forms part.
- 7.1.4. In this regard, the proposed development, if permitted, will result in the loss of a significant amenity which formed part of the original residential development on the wider site. In addition, the subject site includes the area of public open space associated with Merrion Village. Overall, the amenity and open space area provided to serve the Merrion Village development amounted to approximately 0.2ha. It is noted that the current proposed development of this amenity block area would significantly reduce the amenity value of Merrion Village. This is acknowledged by

the applicant who has indicated that a contribution in lieu of the provision of public open space is agreeable in this instance.

- 7.1.5. A grant of planning permission will see the full loss of the amenity space and 3 car parking spaces for Lennon's Cottages as permitted under ABP ref PL29S.211866. In addition, the development, if permitted as proposed, will result in a significant increase in traffic movements across the shared surface which runs directly adjacent to the front doors of the houses. I consider in this regard, that the proposed development, would contravene the terms and conditions of the planning permission which relates to Lennon's Cottages, under which, part of the current proposed site is set out as an area of communal open space and three car parking spaces serving the 3 town houses of Lennon's Cottages.
- 7.1.6. I was unable to find a precedent where the Board permitted an area of permitted public open space and / or a recreational amenity block associated with an existing residential development being incorporated into a proposed development site. Notwithstanding information submitted in support of the proposed development, it is considered that a grant of planning permission in this instance would significantly erode the open space and general amenities enjoyed by these two established residential developments, Merrion Village and Lennon's Cottages and would set an undesirable precedent for similar type developments in other mature estates. The proposed development, therefore, would be contrary to the proper planning and sustainable development of the area.
- 7.1.7. On the other hand, the Board will note that the subject site is located on suitably zoned lands, and within an area where the policy context has changed in the intervening years since permission was granted for the Merrion Village development. The Board may reasonably consider that the development is both appropriate and acceptable given the location of the site within 500m of the Sydney Parade Dart station and proximate to a variety of public facilities and amenities. It is further accepted that densification of suitable lands as proposed would be in accordance with national policy. In this context, I propose to continue my assessment of the proposed development under the headings as indicated above.

7.2. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards:

- 7.2.1. The subject site is located on lands zoned 'R2' Zone Z1: Sustainable Residential Neighbourhoods. It is the stated objective of this zoning 'to protect, provide and improve residential amenities'. Residential development is permitted in principle on such zoned lands. The site is located to the rear of buildings which front onto Merrion Road and comprises part of the sites of two existing residential developments which lie adjacent to the site. Access to the site will be via the existing access which serves Lennon's Cottages.
- 7.2.2. The existing structures on the subject site include the Pavilion, which includes a swimming pool, gym and other private facilities for the residents, a floodlight sunken tennis court and a landscaped open space area. The access to the site is via a pedestrian gated path from Merrion Village. A vehicular access is also noted through the grounds of the petrol station which fronts onto Merrion Road. This access is also gated with restricted access.
- 7.2.3. In terms of the proposed development, the Board will note that 28 apartments are proposed to be constructed in one block comprising one, two and three bed units, all with balconies or roof terraces in a building rising to 5 storey in height. The development also proposes to provide a gym facility in the building.
- 7.2.4. The building will use brick as the primary elevation treatment, with select render, glazing and aluminium panels and will have a flat stepped sedum roof design. All but 1 of the proposed apartments are either dual or triple aspect. The site layout proposes open space to the north western area of the site, incorporating an existing landscaped area associated with Merrion Village. Car parking will be provided within a basement car park providing a stated 28 spaces, 1 of which will be disabled space. The Board will note that only 27 spaces are actually identified on the submitted plans, with no space 11 identified. The refuse storage area will also be located in the basement.
- 7.2.5. The Board will note that the development relates to a site with an area of 0.25ha, with a proposed a site coverage of 28.5% and plot ratio of 0.88:1. This equates to a density of approximately 112 units per hectare (28/0.25). The mix of units proposed

is 12 x 1 bedroom apartments (43%), 13 x 2 bedroom apartments (46%) and 3 x 3 bedroom apartments (11%). In terms of the Development Plan standards, the following is relevant:

7.2.6. The

	Proposed	Development Plan
Site Coverage	28.5%	45-60%
Plot Ratio	0.88:1	0.5-2.0
Density	112	50 units / ph
Public Open Space	1,231m ²	178m ²

Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities suggest that there should be no upper limit to density on City Centre sites subject to qualitative safeguards. In areas close to public transport corridors minimum densities of 50 units per hectare should be applied subject to those safeguards. The density proposed in the amended proposed development is approximately over 112 units per hectare.

The Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2018

7.2.7. The 2018 guidelines update the guidelines from 2015 in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness, Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines, and specific policy objectives contained in these guidelines take precedence over policies and objectives of development plans. The aims of the guidelines are to enable a mix of apartment types, make better provisions for building refurbishment and small-scale urban infill schemes, address the emerging 'build to rent' and 'shared accommodation' sectors and to remove requirements for car-parking in certain circumstances.

7.2.8. Chapter 3 of the Guidelines provide Design Standards and I proposed to consider the proposed development against these requirements as follows:

a) *Apartment floor area:*

The Guidelines require that the minimum floor areas be applied to apartment developments. The proposed development provides for the following floor areas:

No of Unit Type	Minimum overall F/A	Proposed F/A	Total F/A
12 x One bedroom	45.0m ²	1 x 45.7m ² 2 x 50.7m ² 1 x 52.0m ² 8 x 52.2m ²	616.7m ²
13 x Two bedrooms	3 person = 63.0m ² 4 person = 73.0m ²	1 x 73.1m ² 2 x 73.2m ² 2 x 75.6m ² 3 x 82.7m ² 1 x 82.8m ² 4 x 84.5m ²	1,039.6m ²
3 x Three bed	90.0m ²	3 x 90.4m ²	271.2m ²
28 units in Total			1,927.5m²

The development proposes 28 1, 2 and 2 bedroom apartments. All apartments proposed achieve the minimum floor area required by the guidelines.

The guidelines also provide for the following minimum requirements in terms of the living / dining and kitchen room areas:

Minimum aggregate floor areas for living/dining/kitchen rooms

Minimum widths for the main living/dining rooms Apartment type	Width of living/dining room	Aggregate floor area of living / dining / kitchen area*
One bedroom	3.3 m	23.0m ²
Two bedrooms (4 person)	3.6 m	30.0m ²
Three bedrooms	3.8 m	34.0m ²

All units generally accord with the above requirements and I am satisfied that the development proposes bedrooms of a size which comply with the requirements in terms of width and floor areas.

b) *Safeguarding Higher Standards*

It is a requirement 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%)’.

In this regard, the following is relevant:

Unit Mix	No of Apartments	Cumulative Min Floor Area
43% 1-bed units	12	12 x 45m ² = 540m ²
46% 2-bed units	13	13 x 73m ² = 949m ²
11% 3-bed units	3	3 x 90m ² = 270m ²
Total	28	1,759m²

+ 10%	No of Apartments	Cumulative Min Floor Area
1-bed units + 10%	12	12 x 4.5m ² = 54.0m ²
2-bed units + 10%	13	13 x 7.3m ² = 94.9m ²
3-bed units + 10%	3	3 x 9.0m ² = 27.0m ²
Total	18	175.9m²

Total Required Minimum Floor Area therefore is 1,934.9m². The actual proposed floor area of the residential element of the overall development, is 1,927.5m². There appears to be a shortfall of 7.4m² in this regard.

c) *Dual aspect ratios:*

This issue relates to the availability of daylighting and orientation of living spaces in order to maximise the amenity of occupants of the apartments. The proposed development provides for 28 apartments in a single block with a stepped profile that is arranged around a series of shared courtyard gardens. The access and circulation areas are semi-external two blocks, over three floors in 2 three storey height buildings.

All but one of the apartments are either dual or triple aspect, given the open nature of the circulation areas. The majority of the private amenity spaces, 16

in total, are north facing, while 6 are south facing and 4 west facing. The two penthouse apartments will enjoy roof terraces. Only 9 of the 28 proposed living spaces will have a southern aspect.

While I acknowledge the detail of the proposed development, I have reservations regarding the quality of the proposed private amenity spaces for a number of the proposed apartments.

d) *Floor to Ceiling Height:*

It is a specific policy requirement that ground level apartment floor to ceiling heights shall be a minimum of 2.7m, and 3m should be considered for multi-storey buildings. The submitted plans provide a floor to ceiling height of 2.7m across all floors. This is in accordance with the requirements of the guidelines.

e) *Lift & Stair Cores:*

A central core area is proposed to serve the development. Having regard to the scale of the proposed development, I am satisfied that the proposed stairs and lift arrangement is acceptable.

f) *Internal Storage:*

The proposed development provides for storage within all apartments. Minimum storage requirements are indicated in the guidelines and it is noted that said storage 'should be additional to kitchen presses and bedroom furniture but may be provided in these rooms. A hot press or boiler space will not count as general storage and no individual storage room within an apartment shall exceed 3.5m².' The Guidelines also advise that storage for bulky items outside the individual units should also be provided, apart from bicycle parking requirements. The minimum storage space requirements are identified as follows:

Minimum storage space requirements

Studio	3 sq m
One bedroom	3 sq m
Two bedrooms (4 person)	6 sq m
Three bedrooms	9 sq m

In the context of the proposed development, the Board will note that the submitted drawings indicate that storage is provided within each apartment, with a number of units also having storage facilities provided remotely from the apartment. The basement plan submitted in support of the proposed development, and following FI request, identify that 8 storage units are proposed for units 2, 4, 6, 12, 14, 19, 20 and 26. However, there are 9 units which do not meet the minimum storage requirements while a number of other units appear to include a hot press / boiler area in the storage area calculations. Those units which fall short of storage area includes no 13 and not no. 14, as well as unit 1. As such, the development falls short of the minimum requirements in accordance with the guidelines.

g) Private Amenity Space:

It is a specific planning policy requirement that private amenity space shall be provided in the form of gardens or patios/terraces for ground floor apartments and balconies at upper levels. The guidelines require the following minimum floor area for private amenity space:

Minimum floor area for private amenity space

One bedroom	5 sq m
Two bedrooms (4 person)	7 sq m
Three bedrooms	9 sq m

All apartments are provided with balconies or terraces, all of which appear to meet the minimum requirements, and all private open spaces adjoin and have a functional relationship with the main living areas of the apartments. I have raised a concern above in relation to the quality of the private open spaces associated with a number of units given that they are north facing.

h) Security Considerations

The Guidelines require that apartment design should provide occupants and their visitors with a sense of safety and security by maximising natural surveillance of streets, open spaces, play areas and any surface bicycle or car parking. Entrance points should be clearly indicated, well lit, and

overlooked by adjoining dwellings. Particular attention should be given to the security of ground floor apartments and access to internal and external communal areas.

The submitted details indicate that there will be two accesses to the apartment development, one pedestrian access from Merrion Village and the vehicular / pedestrian access from Merrion Road. I will discuss issues raised in the third-party appeals relating to access to Merrion Village later in this report. Access to the proposed apartment development is via an existing entrance from Merrion Road which currently serves 3 town houses, Lennon's Cottages. The width of this entrance is approximately 5m at its widest. Two of the houses on the existing narrow lane have their front doors opening directly onto the cobblelock pavement. This is a shared surface for the cars of the existing residents (with 5 permitted parking spaces serving the existing houses) as well as providing a communal open space area. There is currently no public lighting along this private access.

If permitted, both cars and pedestrians will use this shared surface to access the proposed apartment development. I am not convinced that the proposed development provides an adequate sense of safety and security in this regard. In addition, the pedestrians will have to navigate the entrance / exit to the basement carpark before arriving at the apartment building and having regard to the design of the building, the access to the entrance is not overlooked. I consider that there are issues of residential amenity impacts arising in terms of the existing residents of Lennon's Cottages should the development be permitted as proposed.

- 7.2.9. Chapter 4 of the Guidelines seeks to deal with communal facilities in apartments and deals with access & services, communal facilities, refuse storage, communal amenity space, children's play, bicycle parking and storage and car parking. Given the scale of the proposed apartment block as part of the development, I am satisfied that there is no requirement for a communal room and that the communal areas proposed are adequately sized. The Board will also note the intention to include a gym in the building.

- 7.2.10. In terms of the provision of refuse storage, the Board will note that a bin storage area to service the apartments is proposed within the basement at the at the south western corner. The area will provide 3 commercial sized bins (as noted on the submitted plans) and is located at the end of the access ramp to the basement.
- 7.2.11. I have a real concern in terms of the location of the bin store area for a number of reasons. The location is not particularly central for all future occupants of the scheme and is located immediately adjacent to the entrance to the ramp from the basement car park which may give rise to conflict between cars and pedestrians. In addition, there is no indication of any ventilation proposed in the area of the bin store. While this might be considered minor, a condition to include ventilation may have significant impacts for the residential amenity of the apartment above given the location of the proposed terrace associated with proposed unit no. 5. Given that the ceiling height of the basement is indicated at only 2.55m, waste collectors will not be able to access the store.
- 7.2.12. I note that it is the intention for the management company to move bins from the basement to a designated refuse collection point located within the proposed 'grasscrete' area provided to be used as a turning area adjacent to the 'Private Garden for Residents' The Guidelines advise that 'waste storage areas in basements should be avoided where possible, but where provided, must ensure adequate manoeuvring space for collection vehicles'. I am generally satisfied that the proposals for refuse collection are acceptable. Should the Board be minded to grant permission, the holding area for refuse bins at surface level should be appropriately designed and secured with written agreement with the Planning Authority necessary prior to any development works at the site.
- 7.2.13. In relation to communal amenity spaces, the development is stated to include 1,231m² of external communal open space within 2 private gardens at ground floor level. The Board will note that this includes the current open space area serving Merrion Village. In addition, it would appear that the open space area includes the 'grasscrete' turning area, which will also include the holding area for refuse bins. The applicant also intends to provide a financial contribution in lieu of a 10% provision of public open space at the site. The development also proposes a gym within the building for use by the residents.

- 7.2.14. I have raised concerns above in relation to the principle of the development on the subject site which was developed as part of the public open space and amenity offer for the larger Merrion Village development, and includes 3 car parking spaces and the amenity area associated with Lennon's Cottages. In the context of the wider area, I would accept that there are broad range of community and social facilities available, with good public transport links to the City Centre and other recreational areas. Should the Board be minded to grant permission in this instance, the financial contribution in lieu of the provision of adequate public open space should be included.
- 7.2.15. Car and bicycle parking is proposed within the basement level. The Guidelines promote the location of apartments which have access to public transport and other sustainable transport modes. Where it is appropriate to reduce car parking provisions, high quality cycle parking and storage facilities should be provided. The proposed development provides for 29 car parking spaces in total, 27 in the basement carpark and 2 accessible spaces at street level, and 40 bicycle parking spaces within the basement, which will be accessed via the basement ramp, plus an additional 12 spaces provided at surface level.
- 7.2.16. The guidelines require that 1 cycle storage space per bedroom is applied. The proposed development therefore requires 47 bicycle parking spaces. The development proposes an appropriate quantum of bicycle parking spaces and the development therefore accords with the guideline requirements as they relate to the provision of cycle parking.
- 7.2.17. In terms of car parking, the Guidelines notes that the quantum or requirement for car parking will vary in terms of the location of the site. Section 4.19 suggest that the car parking provision can be minimised, substantially reduced or wholly eliminated in certain circumstances. Such policies are applicable in highly accessible areas in or adjoining city cores or at a confluence of public transport systems. Where it is sought to eliminate or reduce car parking provision, it is necessary to ensure the provision of an appropriate drop off, service, visitor parking and parking for the mobility impaired.
- 7.2.18. The proposed development provides at least 1 parking space for each proposed apartment. However, in achieving this level of parking, the development removes 3 permitted parking spaces which currently service the Lennon Cottages development.

Should the Board be minded to grant permission in this instance, I recommend that a condition requiring the submission of a car parking strategy be included to address this removal of the existing amenity of the existing properties in the area. I will discuss traffic issues further below in this report.

Conclusion:

Overall, I am satisfied that the principle of the proposed development is acceptable in terms of the location of the site within Dublin City and the zoning objective afforded to the site. I am satisfied that the proposed development complies with the general thrust of the Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2018. In addition, the following is relevant:

- Having regard to the backland location of the subject site, access will be through existing developments. Pedestrian access through Merrion Village with vehicular and pedestrian access from Merrion Road via Lennon's Cottages. The access, which runs immediately outside the front doors of the properties in Lennon's Cottages, has a width of approximately 4.8m, and will be a shared surface for pedestrians, cyclists and motorists. Pedestrians from Merrion Road will also have to navigate the entrance to the basement car park. I am not convinced that the proposed development provides an adequate sense of safety and security in this regard.
- In terms of community facilities, having regard to the minimal scale of the development, I am satisfied that such facilities are unnecessary.
- With regard to communal amenity space, I have raised concerns that the proposed development site comprises the majority of the open space and amenity area associated with two separate adjacent residential developments, one large Merrion Village and the small development of Lennon's Cottages. It is noted that the Dublin City Development Plan facilitates the payment of a development contribution in lieu of the provision of open space.
- In terms of bicycle parking and storage, I am satisfied that the proposed development is acceptable.
- The proposed development provides for 29 car parking spaces, 3 of which are accessible spaces, within the scheme. The guidelines facilitate the reduction

in the provision of car parking spaces, or the elimination of such provision in certain circumstances. Given the location of the site, and the proximity of the site to shops and services as well as public transport, I am satisfied that reduced parking may be appropriate to serve the proposed development. The issue of the loss of parking for the adjacent development should be addressed by way of the submission of a parking strategy.

- The quality of the proposed private amenity spaces, particularly for the proposed ground floor apartments and those with a northern aspect, is questionable.
- A communal refuse storage area is proposed in the basement of the proposed development. No ventilation proposals are evident in the submitted plans. A further holding area is proposed – no details submitted – at surface level within the proposed vehicle turning area. Should the Board be minded to grant permission in this instance, the refuse temporary holding area at surface level should be clarified.

7.3. Visual & Residential Amenity Impacts

- 7.3.1. The proposed development site lies to the rear of the existing petrol station on Merrion Road. The Merrion Inn, a two-storey public house, also lies to the front of the site. To the rear, the Merrion Village apartment blocks rise to 5 and 6 storeys. St. John's House nursing home lies to the east of the site and rises to 3 stories in height. The proposed development will rise to 5 storeys in height, with the top floor comprising two penthouse apartments. The elevational treatment of the proposed building will include a light coloured red brick with aluminium windows, recessed balconies with steel balustrades. The roof will be finished as sedum roof.
- 7.3.2. Having regard to the location of the site, this will result in the building rising 3 floors above the existing properties onto Merrion Road. While I acknowledge the overall height of the buildings in Merrion Village, given their set back from Merrion Road, the visual impact is reduced. As proposed, the development will have a visual impact on Merrion Road. I also note that national policy encourages higher buildings in order to provide sustainable housing in areas where services and infrastructure are available. I do have concerns in terms of the height, scale and bulk of the proposed building

and consider that it would be overbearing on existing residential development to the north and west.

- 7.3.3. The Dublin City Development Plan, 2016-2022, at Section 16.7.2 provides guidance and standards for building height limits within the City. The subject site is located within an area which has been identified as having a building height cap of 24m. Section 4.5.4 of the Plan deals with taller buildings and acknowledges the intrinsic quality of Dublin as a low-rise city, and considers that it should remain predominantly so. The Plan further provides that taller buildings can also play an important visual role, and 'recognises the merit of taller buildings in a very limited number of locations at a scale appropriate for Dublin'. While I acknowledge the above, and should the Board be minded to grant permission in this instance, I recommend that the third floor of the development be omitted in order to reduce the visual impact of the development on the wider Merrion Road area.
- 7.3.4. In terms of the potential impact of the development on existing residential amenities, the Board will note my initial concerns in terms of the loss of open space and amenity facilities which were permitted as part of two other residential developments. In terms of overshadowing, I note that given the orientation of the site, the development, if permitted will result in the overshadowing of a number of existing apartments in Merrion Village. Indeed, the Daylight and Sunlight Analysis submitted in support of the proposed development suggests that the development will result in the complete overshadowing of a number of apartments in Merrion Village including nos 49-68 during the winter. While I acknowledge the design of the Merrion Village apartment blocks, which include enclosed balconies, I would not accept that it is appropriate to compound the existing poor lighting available in the existing apartments. These apartments have a southern aspect and would appear to enjoy a large amount of sunlight / daylight throughout the year.
- 7.3.5. I note the concerns raised in terms of potential overlooking of existing residential properties due to the proposed development. In this regard, I would be satisfied that the design elements of the building, particularly the north eastern elevation, can be employed to preclude such overlooking. I also note the intention to retain existing landscaping immediately adjacent to the existing apartment block in Merrion Village which will further limit such overlooking. The development will, however, be overbearing in the context of the adjacent residential amenities.

7.3.6. Overall, and while the principle of the proposed development is acceptable in terms of the zoning objective afforded to the site, I am concerned that the proposed development, due to its height, scale, massing and orientation, would impact on the existing residential amenities of property in the vicinity. In addition, I consider that the proposed access to the basement car park, which I will discuss further below, will significantly and negatively impact on the existing residential amenities of Lennon's Cottages. While I acknowledge that the scale of the proposed development is not large, the front doors of the properties in Lennon's Cottages open directly onto the shared surface, which is 4.8m across the majority of the length. The introduction of additional cars along this shared surface will significantly reduce the amenity space available for residents and children, as well as the loss of parking spaces.

7.4. Roads & Traffic

7.4.1. The site is located in an area which is accessible to Dublin City Centre, being a 50 minute walk to St. Stephens Green, approximately 4km. The area is also served by high frequency bus services, dart services and cycle lanes. There is also paid parking available in the vicinity of the site on Merrion Road. The applicant submitted a Traffic & Transport Assessment as part of the planning documentation in order to address the impact of the development on the adjacent road network for weekday AM and PM peak hours. It is proposed that the vehicular access to the developments' basement carpark will be by way of a priority access from the heavily trafficked Merrion Road. This access will widen the current access the houses of Lennon's Cottages. The existing volume of traffic using the entrance is very small.

7.4.2. The access ramp to the basement car park will be controlled by red/green aspect signal heads and the proposed traffic control methodology will ensure that entering vehicles from Merrion Road will have priority. As such, it is anticipated that there will be no disruption to Merrion Road traffic. In addition, it is noted that each apartment will have 1 parking space in the basement. The Board will note that Dublin City Councils Roads Streets & Traffic Department, Road Planning Division initially raised a concern in terms of the potential impact of the development on the footpath and bus lane and indicated conflicts between accessing and exiting vehicles.

7.4.3. In response to the above, the applicant submitted proposal to relocate the existing sub-station to improve access arrangements at the gate. The pedestrian gate is also

to be relocated. In order to facilitate improved access and sight lines, the applicant also proposes to remove one of the existing on-street parking spaces. Should the Board be minded to grant permission in this instance, a condition should be included to ensure that the developer consult with, and get agreement from, the Environment & Transportation Department in relation to any alterations to pay and display parking spaces.

- 7.4.4. In terms of the assessment findings, it is expected that in the worst case scenario, the development will result in traffic increases on Merrion Road in the order of 8 2-way traffic movements in both the AM and PM Peak hours, with 61 total 2-way car movements over a 24 hour period. It is concluded that the development will have a negligible traffic impact. The Traffic & Transport Assessment Report, at section 5, includes details of Alternative Transport Accessibility which identifies pedestrian links, cycling infrastructure and public transport facilities available in the immediate area.
- 7.4.5. The Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2018, facilitate the reduction in the provision of car parking spaces, or the elimination of such provision in certain circumstances. Given the location of the site I am satisfied that the proposed parking quantum is appropriate to serve the proposed development. I am further satisfied that adequate bicycle parking is proposed. I do note the requirements of Dublin City Councils Roads Streets & Traffic Department, Road Planning Division require that a minimum of 6 no. cycle parking spaces are provided adjacent to the gym entrance to facilitate staff and public access. This can be dealt with by way of condition of permission.
- 7.4.6. Having considered the nature and scale of the proposed development, I am generally satisfied that the proposed development is acceptable in terms of roads and traffic. However, my concerns in relation to the impact of the development, and associated traffic, on the existing residential amenities of the Lennon's Cottages properties remain. Should the Board be minded to grant planning permission in this instance, details for the replacement of the 3 car parking spaces to serve Lennon's Cottages, as permitted by the Board under ABP ref PL29S.211866 (PA ref: 1302/05), should be provided and addressed. In addition, a parking strategy for the overall development should be provided, and agreed, prior to the commencement of any development on the site.

7.5. Water Services

7.5.1. In terms of water services, the Board will note that the applicant submitted an Engineering Planning Report in support of the proposed development. This report sought to address the surface water drainage, foul water drainage and water supply for the proposed development as follows:

7.5.2. Surface Water Drainage and SUDs:

- The report notes that the existing building on the site is drained via gravity to a surface water drainage network which connects into the Merrion Village Development. The existing surface water network will be removed as part of the proposed works and the connection into Merrion Village will be made redundant.
- Surface water from the proposed development will be collected in a new surface water drainage network in the basement which will connect to a new external surface water network within the site and fall by gravity to an attenuation system located in the private open green space.
- The surface water drainage and attenuation systems have been designed in accordance with the 'Greater Dublin Strategic Drainage Study.
- Discharge from the attenuation tank will be restricted via a hydrobrake flow control device and it is proposed to include extensive sedum green roof areas as part of the development.
- Implementation of SUDs measures will ensure that the surface water system is a sustainable solution that will have minimum impact on the existing system.
- The outfall pipe from the proposed surface water drainage system will connect into the existing 150mm diameter surface water drain pipe which currently serves the Lennon's Cottage development, which is deemed to have sufficient capacity.

7.5.3. Foul Sewer & Water Supply:

- The development proposes to connect to Irish Water services. The report notes the location of two large combined sewers – a 900mm diameter and a 1,350mm diameter – which crosses through the site.
- The proposed foundations for the development have been designed based on a previous solution employed at Lennon’s Cottages to ensure no surcharge loading occurring on the existing sewers.
- As part of the planning documents, the applicant advised that an Irish Water Pre-Connection Application for water services has been submitted.
- Details of the proposed foundation solution, to ensure a minimum clearance of 2m between the edge of the piles and the edge wall of the existing sewer lines are submitted.
- In terms of water supply, it is proposed to connect into the existing 225mm HPPE public watermain located in Merrion Road using a 125mm HPPE spur of the public watermain.

7.5.4. In terms of water services, the Board will note that Drainage Division of Dublin City Council raised no objections to the proposed development. It is further noted that Irish Water has indicated that there is capacity in the networks to accommodate the proposed development. The letter from IW however, noted the presence of the two trunk sewers running through the site and advises that ‘structures or works over or in close proximity to the infrastructure that will inhibit access for maintenance or endanger structural or functional integrity of the infrastructure are not allowed’.

7.5.5. Notwithstanding the submissions of the applicant in this regard, the Board will note the report to Dublin City Council from Irish Water, dated the 16th day of March 2020. This report recommends a refusal of planning permission for the proposed development for the following reasons:

1. the development will have a detrimental impact on IWs ability to complete future maintenance on two critical infrastructure assets.
2. the proposed design does not comply with IWs Codes of Practice.

3. the asset can neither be relocated or adequately protected from the development. It is illegal to build over a public water main or public sewer without permission from IW. The development would be prejudicial to the sustainability of the public water / wastewater supply.

7.5.6. Dublin City Council decided to grant permission for the proposed development, subject to Condition 4 which states:

Prior to the commencement of development, the applicant shall provide written evidence that an agreement has been reached with Irish Water in relation to the issues they have raised so that the development as applied for can proceed.

Reason: In the interest of the proper planning and sustainable development of the area.

The Council arrived at this decision on the basis that the applicant had gone through the process of responding to an additional information request and that this was not raised as an issue. It was concluded that the matter should be dealt with by way of condition.

7.5.7. The Board sought further comment from Irish Water in relation to the matter. The response received on the 23rd September 2020 maintained IW's concerns in relation to the impact of the proposed development on the referenced assets. In this regard, I consider it reasonable to conclude that the development could not be accommodated in terms of water services. Permission should be refused for the reasons stated by Irish Water. The IW submission was circulated to all parties with any submissions on same required by the 22nd October 2020. On the 22nd October 2020, the first party submitted a response to the IW submission as detailed in Section 6.5.4 of this report. My initial report was completed on the 23rd October without sight of the first party submission. The first party submission was circulated to all parties for comment by the 23rd November.

7.5.8. Following the submission of proposed amendments to the development by the first party, Irish Water indicated that their objection could be removed and that the proposed development could be accommodated subject to compliance with conditions and that the appropriate separation can be achieved to protect the assets. IW make specific reference to drawing no. 191021-C004 Revision PL3 and dated

21/10/209 which shows a 4m separation distance to the south of the asset and 6m to the north. A further sketch was prepared to increase the separation distance to the south of the asset to 6m also. In this regard, I am generally satisfied that this issue can be considered as having been appropriately dealt with.

7.5.9. In amending the proposal to protect the IW assets, the Board will note that the make-up of the proposed scheme changed. Where initially the development proposed 12 x 1 bed, 13 x 2 bed and 3 x 3 bed apartments, the amended proposal will provide for 1 x studio, 16 x 1 bed and 11 x 2 bed apartments. While full details of the scheme which provides for a 6m separation distance between the development and the IW assets, I would advise that such a proposal would provide for 5 x studios, 14 x 1 bed and 8 x 2 beds.

7.5.10. I refer the Board to the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, DoHP&LG 2018 and in particular, to the relevant sections on Housing Mix. Specific Planning Policy Requirement 1 states

Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence-based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

In addition to the above, the Board will note that the subject site covers an area of 0.2522ha and therefore, Specific Planning Policy Requirement 2 does not apply.

7.5.11. In this context, the proposed iterations of the scheme provide as follows:

Apartment Type	Original	Amendment 4m	Amendment 6m
Studio	0	1 (3.6%)	5 (18.5%)
1 bed	12 (42.9%)	16 (57.1%)	14 (51.9%)
2 bed	13 (46.4%)	11 (39.3%)	8 (29.6%)
3 bed	3 (10.7%)	0	0

7.5.12. In terms of the above figures, and having regard to the national guidelines, I would not consider that the breakdown in the proposed mix of units adequately accords. Should the Board be minded to grant permission in this instance, it should satisfy itself that the mix of units has been appropriately considered and complies with national guidance. In addition, full details of amendments to the development should be submitted for full consideration and assessment.

7.6. Other Issues

7.6.1. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.6.2. Flooding Issues

Third party appellants raised the issue of flooding as a concern. In support of the proposed development, the applicant submitted a Flood Risk Assessment as part of the planning documentation. The assessment notes the location of the site within an urban environment which has no overland watercourses in the vicinity. The nearest main waterbody is Dublin Bay which lies approximately 300m to the east of the site, with the River Dodder approximately 1.4km to the west of the site. The assessment includes a summary of historic flood events in the wider area. The available flood maps confirm that the site is at risk from the 1% AEP (defended) and the 0.1% AEP coastal flood events.

The submitted FRA identifies that while the majority of the site is within Flood Zone C, part of the site is located within Flood Zone A/B, and mitigation measures are proposed to manage flood risk at the site. The main mitigation measure is to raise the proposed FFL above the 0.1% AEP flood level and to provide a flood barrier across the access ramp to the basement car park to protect against possible inundation. This barrier will be automated which is activated by the inflow of floodwaters and does not need to be manually activated prior to a flood event. The FRA considers that the infilling of the tennis court, approximately 100m³, will not have an impact on the surrounding developments and the potential flow paths through the site will be maintained. As such, any potential floodwaters will not be

intercepted which could result in a build-up of floodwaters onsite or redirected to neighbouring properties. The FRA included a Justification Test.

Having regard to the information presented and available in relation to flood risk, I am generally satisfied that the proposed development can be accommodated on the subject site without increasing risk to neighbouring properties.

7.7. Appropriate Assessment

- 7.7.1. The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(site code 00210) and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) which are located approx. 300m to the east of the site.
- 7.7.2. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

I recommend that planning permission be refused for the proposed development for the following stated reasons.

9.0 Reasons and Considerations

1. It is considered that the development would contravene the terms and conditions of the parent planning permissions for two wider residential developments, as the subject site includes the open space / amenity facilities, as well as parking spaces, permitted under the relevant permissions (Merrion Village development, planning authority planning register reference numbers 4020/78, 1471/81 and 660/82 & Lennon's Cottages development, An Bord Pleanala reference number PL29S.211866 (PA ref: 1302/05)), under which the land the subject of this application was set out as an area of open space and amenity facilities serving the overall Merrion Village estate, and open space and car parking serving Lennon's Cottages.

Notwithstanding information submitted in respect of the proposed development, it is considered that a grant of planning permission in this instance would erode the open space and recreational amenities enjoyed by residents of Merrion Village, as well as impacting on the parking spaces and communal open space area enjoyed by residents of Lennon's Cottages, two established developments. The development would set an undesirable precedent for similar type developments in such open spaces / amenity facilities in other residential estates and would, therefore, would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the character and layout of the proposed development, it is considered that the development if permitted, would result in a significant impact on the existing residential amenities of adjacent residents in terms of overshadowing and overbearing of properties within Merrion Village. It is further considered that the development, and in particular the proposed vehicular access to the basement carpark which runs immediately adjacent to

the front doors of residences across an existing shared surface which currently accommodates only 3 cars passing to access 3 parking spaces, would have a significant impact on the existing residential amenities of the residents of Lennon's Cottages and would result in conflicts arising between pedestrians, children playing and vehicles. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the presence of two trunk sewers running through the site, and to the proposed solutions submitted to the Board on the 22nd October 2020 to address Irish Waters concerns in relation to the future maintenance of these critical infrastructure assets, the Board is not satisfied that the amended scheme, which proposes between 17 (60.7%) and 19 (70.4%) studio or 1 bed units within the scheme of 28 or 27 units, depending on a 4m or 6m separation distance from the Irish Water Asset, adequately complies with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, DoHP&LG 2018, in terms of unit mix within the scheme. The development would be contrary to the guidelines and would, therefore, be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
03rd December 2020