



An
Bord
Pleanála

Inspector's Report

ABP-307548-20

Development	The development will consist of the retention and Alteration of the existing part-3 and part-4 storey front façade and the construction of 9 apartments
Location	Nos. 29-31 The Coombe, Dublin 8, (Eircodes D08 A025 and D08 VE20)
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	4298/19
Applicant(s)	Malclose Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Monica Keaney & Family
Observer(s)	None
Date of Site Inspection	19 th October 2020
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of .0543ha and is located on the northern side of the road and comprises Nos 29-31 The Coombe, Dublin 8. It lies in the south inner city along the Coombe, which was formerly a heavily trafficked route into the city centre that was by-passed by St. Luke's Avenue around the turn of the century. The site is occupied by three terraced buildings with brick facades that form part of the street frontage, ranging in height from three storeys to four storeys. The buildings are currently unoccupied and have been vacant for some time.
- 1.2. The site is bound to the north by the rear gardens of two-storey terraced houses at Park Terrace, which are at a higher elevation, to the west No. 32 The Coombe and to the east a two-storey terraced house No. 28.
- 1.3. No. 29 is the easternmost of the three buildings. It is a three-storey redbrick building with a double pitched roof. The rear yard and upper levels are accessed via a side passage and separate front door. No. 29 is connected at ground floor to No. 30. No. 30 is a four storey "shell" and the original roof has been replaced with a flat roof. Similarly, No. 31 is also four storeys and whilst some internal partitions exist this building is effectively a "shell" also and the original roof has been replaced with a flat roof. Application documents indicate that the structural condition of the existing buildings are poor having suffered from years of neglect and sustained water ingress with significant evidence of timber decay.
- 1.4. All facades appear to be late 19th Century Nos 30 and 31 appear to have been refaced at the same reflecting the unified appearance. All three buildings are linked by single storey structures to the rear.
- 1.5. The appeal site is located in the Thomas Street and Environs ACA, within the zone of archaeological potential for Dublin City (DU018-020557) and the adjoining structure no. 32 is a Protected Structure.

2.0 Proposed Development

- 2.1. The development comprises:
 - the retention (apart from at ground floor level) and alteration of the existing part-3 and part-4 storey front (south) façade and the demolition of the structures behind (total 928 sqm);

- the construction of a part-4 and part-5-storey apartment building (with setbacks at first, third and fourth floor levels) (increasing the height of the existing structures by 1 storey at Nos. 30-31 and 1 and part-2 storeys at No.29), to accommodate 9 No. apartments (1 No. 1-bed unit and 8 No. 2-bed units) behind the retained front (south) façade including a new façade at ground floor level and alterations to existing opes;
- a single storey structure to the rear of the development (84 sq m) to accommodate plant, waste storage areas, storage spaces and bicycle parking.
- The total gross floor area of the proposed development is 1,041 sq m. pedestrian and bicycle access to the scheme will be from the Coombe.
- The development will also consist of the provision of: private open spaces in the form of ground floor level terraces (to the rear (north)), and balconies/terraces (to the rear (north)) at first, second, third and fourth floor levels; to the front (south) at third and fourth floor level; and to the side (east) at fourth floor level); a semi-private courtyard at ground level (to the rear (north));
- all hard and soft landscaping including boundary treatments; changes in level; surface water attenuation measures; roof plant including PV panels, and all other associated site excavation and site development works above and below ground.

2.2. An Architectural Heritage Assessment Report and Design Statement, Engineering Report, Preliminary Construction Management Plan and Preliminary Condition and Structural Assessment, Archaeological Assessment, Screening Report for Appropriate Assessment accompanied the planning application.

2.3. The design proposal seeks to retain the majority of the extant facade save the alterations of openings to accommodate the internal layout and proposed floor levels by incorporating metal clad guard rails to achieved appropriate cill levels. New build elements complement existing structures rather than creating a pastiche of Victorian styles. The proposed structure will be executed in contemporary aesthetic using a palette of modern materials.

2.4. Additional information was sought on 16th December 2019 relating to overlooking, design response to additional fourth floor and revised flood risk assessment. A Sunlight and Daylight Assessment was also submitted.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted for the development subject to 18 conditions, the following of which are of note:

Condition no. 9 relates to the provision cycle parking

Condition no. 11 relates to archaeology

Condition no. 15 relates to finishes

Condition no. 17 relates to development Bond

Condition no. 18 relates to Part V

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner's initial report notes that while there is no objection to the design approach and proposed materials to be used in the proposal, there was some concern regarding the roof profile and colour of materials in the context of architectural character and overall visual amenities. Additional information was recommended in this regard. Overall, it was considered that the development complies with the development plan policy and the apartment Guidelines. It was accepted that the development would not have a significant negative impact on the residential properties in the vicinity in terms of overshadowing. However additional details regarding the potential for overlooking were required. In addition to revised flood risk assessment proposals where the minimum finished floor level for the proposed development shall be a typically 500mm above street level.

Following the receipt of further information it was concluded that the development was acceptable and in accordance with the proper planning and development of the area.

3.2.2. Other Technical Reports

Waste Management: No objections subject to conditions.

Drainage Division: Final report dated 29th May 2020 sets out no objection subject to conditions.

Prescribed Bodies

Transport Infrastructure Ireland – In their report dated 21st November 2019 the TII set out a detailed condition relating to the development noting that the site falls within the area covered by the Supplementary Development Contribution Scheme (Section 49, Planning & Development Act, 2000 as amended). Luas Cross City (St. Stephen's Green to Broombridge Line). The works should not have an adverse impact of Luas operation and safety

3.3. **Third Party Observations**

A total of 9 submissions were made to Dublin City Council. The following is a summary of the issues raised:

- The scale of the proposal
- Overlooking and loss of light
- Overshadowing
- Loss of Privacy.

4.0 **Planning History**

Site

ABP PL29S. 244450 /DCC Reg. Ref. 3684/14 – Permission granted in 2015 for Alterations to existing mixed use development and provision of 11 no. new residential units

DCC Reg. Ref. 3126/11 – the planning authority granted permission on 21st May 2011 for redevelopment work at Nos 29, 30 and 31 the Coombe. From the details submitted by the planning authority, it appears that the authorised development would provide 6 apartments on upper floors including one new storey, with the ground floor units staying in commercial use.

PL29S. 229826/ DCC Reg. Ref. 5633/07 – the board refused permission for the demolition of the buildings on the site and their replacement with a 6 storey block

with 11 apartments, offices and retail space. The reasons for refusal referred to overdevelopment of the site and injury to the privacy of adjoining dwellings; and to the impact on the setting of the adjoining protected structure due to the elevational design and scale of the street frontage. The planning authority had decided to grant permission.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is zoned Z1 – ‘to protect, provide and improve residential amenities’. The site is located within the architectural conservation area (ACA) of Thomas Street and Environs.

Relevant policies and standards of the Dublin City Development Plan 2016-2022 include:

- Chapter 4: Shape and Structure of the City
- Section 4.5.9 Urban Form and Architecture
- Chapter 5: Quality Housing
- QH8: To promote the sustainable development of vacant or under-utilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and the character of the area QH22: To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise
- QH18: To promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with the standards for residential accommodation.
- QH22: To ensure that new housing development close to existing houses has regard to the character and scale of the existing houses unless there are strong design reasons for doing otherwise.

- QH23: To discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied, and a net increase in the number of dwelling units is provided in order to promote sustainable development by making efficient use of scarce urban land.
- Policy CHC2 - To ensure that the special interest of protected structures is protected.
- 11.1.5.4 Architectural Conservation Areas & Conservation Areas
- *CHC4*: To protect the special interest and character of all Dublin's Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.
- Policy CHC5 – To protect Protected Structures and preserve the character and the setting of Architectural Conservation Areas.
- Section 16.10.2: Residential Quality Standards, Houses
- Section 16.10.3 Residential Quality Standards – Apartments and Houses.
- Section 16.10.10 Infill Housing
- Section 16.10.15 Basements
- Parking: Area 1 applies to the appeal site. 1 car parking space is required.

5.2. Liberties Local Area Plan (extended to 2020)

Section 5.1.5 Liberties/The Coombe. Notes key characteristics including building heights generally 1 to 3 storeys. Key objectives include requirement for new infill development to relate to the height of adjacent buildings. Infill development should avoid a tendency to pastiche whilst reflecting the scale of adjacent buildings of heritage value.

6.5.5 Architectural Heritage Objectives – to improve recognition of the layers within buildings where facades may have changed in later period but where old plot sizes, interiors and rear elevations evidence their earlier origins.

Section 6.5.3 Height Strategy. Seeks to protect scale and grain.

5.3. National Policy and Guidelines

- National Planning Framework (2018)
- Urban Development and Building Height Guidelines for Planning Authorities, Department of Housing, Planning and Local Government, December 2018.
- Architectural Heritage Protection Guidelines (2011)
- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009)

5.4. Natural Heritage Designations

There are two designed sites within 4.4 km of the site.

- South Dublin Bay SAC (Site code: 000210)
- South Dublin Bay & River Tolka Estuary SPA (Site code: 004024)

5.5. EIA Screening

On the issue of Environmental Impact Assessment screening I note that the relevant classes for consideration are class 10(b)(i) "Construction of more than 500 dwelling units" and 10(b)(iv) "Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere". Having regard to the size of the development site (0.0543ha) and scale of the development it is sub threshold and the proposal does not require mandatory Environmental Impact Assessment. Having regard to the nature and scale of the proposed development, the brownfield nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required

6.0 The Appeal

6.1. Grounds of Appeal

Monica Keaney and Family, 28, The Coombe, Dublin 8. The appeal sets out the following:

Scale

- The scale of the development comprising four to five storey structures is inappropriate for this location and takes no account of the proper planning and sustainable development of the area.

Privacy and Overlooking

- It is set out that the balconies facilitating apartment 8 and 9 on the fourth and fifth floor extend along the full length of the east wall of the appellant home enabling full view of their back yard.
- The overlooking will be exacerbated by the fact that the same balconies will overlook the existing rooflight into their Livingroom. If the balconies were to proceed it is requested that a 2m high solid screen be provided to prohibit overlooking.

Daylight and Sunlight

- It is set out that the Daylight and Sunlight report is not a true representation of current sunlight as per the 21st March. It is set out that no. 28 is subject to more than two hours of sunlight.
- It is set out that the rear rooflight will be overshadowed by the development

Party Walls and Demolition

- Concerns is expressed reading the scale of the development and the structural stability of party walls, adjoining walls and adjoining structures.

Archaeology

- It is set out that the site is with a zone of Archaeological potential with 11 Recorded Monuments with 150m of the site and appropriate archaeological monitoring is required.

Drainage

- It is set out that the nine additional dwellings should not impact negatively on the drainage arrangements, which are already under pressure.

On site construction

- Concerns is expressed regarding construction management on the site.

6.2. Applicant Response

- It is set out that the development has due regard to the site's infill inner city location, in proximity to employment areas and high quality public transport connections, addition to the site's planning history.

Scale

- It is set out that the building height in the area is mixed and the precedent of increased building height has previously been permitted on the site under ABP PL29S. 244450 /DCC Reg. Ref. 3684/14.
- The design was revised at further information stage to address the concerns raised by DCC and reflect a simplified roof profile. The proposed development maintains the side parapet of No. 29 with the new additional two floor levels set back form the boundary with No. 28. The building height increase inn height to the west as per the existing buildings and planning precedent.

Privacy and Overlooking

- Apartment No .9 - In response to the appeal the applicant has submitted revised drawings for the Boards consideration providing for an extension of the guardrail of no. 9 extending the 1.5m high rail from 3.5m to 7 metres along the eastern boundary at the rear of No. 28. It is further stated that the angle of the guardrail fins has been selected to further deter overlooking of areas in the near distance , including the rear yard and rooflight of No. 28.
- Apartment No 8 - In response to the appeal the applicant has submitted revised drawings for the Boards consideration providing for a further set back of the guardrail from 770mm to 960mm ensuring a person standing on the

terrace will be further back from the eastern boundary with No. 28 whilst maintaining a terrace floor area of 10sqm.

- It is not considered that the appellants suggestion to raise the guardrail to 2m high and construct them out of a solid material is an appropriate design response.

Daylight and Sunlight at No. 28

- *VSC/Daylight to windows and Rooflights* – The Daylight and Sunlight report submitted confirms that each of the five windows assessed at the rear of No. 28 have a ratio of more than 0.80 of the current value after development and is in accordance with BRE guidance.
- *Sunlight to Rooflight* – It is noted that the rear garden windows are north facing and not assessed as sunlight cannot reach north facing windows. With respect to the rooflight the report determines an annual and winter ratio of more than 0.80 of the current value after development and is in accordance with BRE guidance.
- *Sunlight to Open Space* - The modelling carried out in accordance with the BRE guidance demonstrates that on the representative date of the 21st March, no part of the rear yard of No. 28 is capable of receiving two hours of sunlight due to existing obstructions and further impacts on this space are not assessed under the Guidelines.
- Comment is made on the photographs submitted as part of the appeal.

Party Wall and Demolition

- It is set out that a Preliminary Condition and Structural Assessment was submitted. Noting the poor condition of the existing building it is set out that if the buildings are to be left in their current condition and unoccupied there is not benefit to any party. It is further set out that condition no. 9 of the DCC notification included a Construction Management Plan be provided and this is appropriate to address the appellants concerns.
- It is set out that the Consulting Engineer concluded that the party wall between the two structures are likely separate gable walls which abut each other, and this will be verified on site.

- It is set out that construction of the new structure will consist of standard construction practices and the applicant will be happy to accept a condition requiring the submission of a Construction Management Plan

Archaeology

- It is set out that An Archaeological Assessment accompanied the planning application which recommend archaeological testing be carried out. It is stated that the applicant will be happy to accept a condition similar to condition no. 11 outlined in the notification of decision issued by DCC.

Drainage

- It is set out that the existing development represents almost 100% site coverage discharging to the combined sewers. The proposed development includes SUDs measures and will reduce the volume of surface water run-off into the combined sewer, reducing the impact from the site.
- It is further set out that the foul flows associated with the proposed development are comparable to the previous commercial use of the buildings and are negligible.

On-Site Construction

- It is set out that the applicant will be happy to accept a condition requiring the submission of a Construction Management Plan

6.3. Planning Authority Response

None

7.0 Assessment

Introduction

- 7.1. The applicant has submitted revised drawings to the Board for consideration with respect to the external terrace areas proposed for apartment no. 8 and apartment no. 9. The revisions can be summarised as follows:

Apartment No 8 - The revised drawings provide for a further set back of the guardrail from 770mm to 960mm ensuring a person standing on the terrace will be further

back from the eastern boundary with No. 28 (the appellants property) whilst maintaining a terrace floor area of 10sqm.

Apartment No .9 - The revised drawings provide for an extension of the guardrail of no. 9 extending the length of the 1.5m high rail from 3.5m to 7 metres along the eastern boundary at the rear of No. 28. It is further stated that the angle of the guardrail fins has been selected to further deter overlooking of areas in the near distance, including the rear yard and rooflight of No. 28.

The following assessment has regard to the revised drawings submitted.

7.1.1. I consider the substantive issues arising from the grounds of appeal relate to the following:

- Principle of Development
- Impact on Character of the Area
- Impact on Residential Amenities
- Other Matters
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The proposal provides for the retention and alteration of the existing part three and part four storey front façade and the construction of nine apartments. The provision of residential development on lands zoned Z1 in the Dublin City Development Plan 2016-2022 which seeks “To protect, provide and improve residential amenities” would be consistent with the policies of the Planning Authority as set out in Section 14.1 *Zoning Principles* of the Development Plan which seek to encourage the development of underutilised and brownfield sites adjacent and close to public transport nodes.

7.2.2. It is considered that the proposed development in terms of floor areas would be acceptable and in accordance with Development Plan standards and the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, March 2018. The Planning Authority have raised no issues in this regard.

- 7.2.3. I note no car parking is proposed to be provided on the site. The Development Plan establishes that car parking provision maybe reduced or eliminated in areas that are well served by public transport. The proposal is well served by public transport with high capacity, frequent services available in the immediate vicinity. There is no issue with car parking provision on the site. 22 no. secure cycle parking spaces have also been proposed on site.
- 7.2.4. I consider that the principle of the proposed development, including the partial demolition of the existing buildings on the site acceptable within this zoning category, subject to the detailed considerations below.

7.3. Impact on the Character of the Area

- 7.3.1. The appellant contends that the development comprising four to five storey structures is inappropriate for this location and takes no account of the proper planning and sustainable development of the area. I note the site is located in the Thomas Street and Environs ACA , within the zone od archaeological potential for Dublin City (du018-020557) and the adjoining structure no. 32 is a Protected Structure.

Scale and Design

- 7.3.2. The applicant argues that the development has due regard to the site's infill inner city location, in proximity to employment areas and high quality public transport connections, addition to the site's planning history. It is set out that the building height in the area is mixed and the precedent of increased building height has previously been permitted on the site under ABP PL29S. 244450 /DCC Reg. Ref. 3684/14. I would agree. In the case of the subject site the development to the immediate east and north of the site reflect two storey residential properties with rear private gardens. However, in the wider streetscape environment I note the prevailing building heights in the area are generally mixed ranging from two-five storeys. I am therefore satisfied that the 4th and 5th floor addition will not tower above the established building line.
- 7.3.3. The design was revised at further information stage to address the concerns raised by DCC and reflect a simplified roof profile. The proposed development maintains the side parapet of No. 29 with the new additional two floor levels set back form the boundary with No. 28. The building height increases in height to the west as per the

existing buildings and planning precedent. I am therefore satisfied that the 4th and 5th floor addition will not tower above the established building line. The subject proposed development at 14.718m in height does not exceed the current height restriction of 24m as set out in Section 16.7.2 of the Dublin City Development Plan (2016-2022) and the Urban Development and Building Heights Guidelines for Planning Authorities (2018) encourages increased building heights.

Impact on Architectural Heritage

- 7.3.4. The Architectural Heritage Assessment Report and Design Statement submitted established that the buildings are generally in very poor condition. This is evident from the schedule of photographs accompanying the report and from my site inspection. I consider the design approach offers a modern design solution retaining elements of the traditional façade that is characteristic of the area, combined with the recessed and tiered building height and the contemporary roof profile and finishes of the 4th and 5th floors serves to reduce the mass of the development and is an acceptable approach in the Architectural Conservation Area in accordance with Policy *CHC4* of the development plan and the key objectives of Section 5.1.5 Liberties/The Coombe of the Liberties LAP. I also consider the proposal will add architectural interest to the building and I consider this approach acceptable and in line with the Architectural Heritage Protection Guidelines to preserve the character of Architectural Conservation Areas.

Archaeology

- 7.3.5. The appellant notes that the site is with a zone of Archaeological potential with 11 Recorded Monuments with 150m of the site and accordingly appropriate archaeological monitoring is required. In this regard, I note the Archaeological Assessment Report accompanying the planning application recommended archaeological testing be carried out. I further note that the applicant states that they will be happy to accept a condition similar to condition no. 11 outlined in the notification of decision issued by DCC relating to archaeological monitoring on the site. I consider this acceptable and in accordance with proper planning and development.
- 7.3.6. In conclusion, I consider the proposed development, in terms of overall scale and design will sit comfortably within the existing streetscape and will not have a

significant visually overbearing impact given the design and urban context. In my opinion the development would not appear over dominant or incongruous in the streetscape, so as to negatively affect the character of the area.

7.4. **Impact on Residential Amenity**

- 7.4.1. The appellant has expressed concerns regarding the impact of the development on their residential amenity in terms of privacy and overlooking, daylight and sunlight and construction works.

Privacy and Overlooking

- 7.4.2. The potential for negative impact on established amenity is assessed particularly with regard to impact of **overlooking** of the No . 28 to the immediate east of the site.
- 7.4.3. The ‘Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities’ and its accompanying ‘Urban Design Manual’ does not set rigid minimum separation distances but does require that habitable rooms and private amenity space should not be directly excessively overlooked by neighbouring residents. The appellant has raised a particular concern regarding the external terrace areas associated with apartment no. 8 and apartment no. 9 on the fourth and fifth floor respectively. In response to the appeal the applicant has submitted revised proposals for the consideration of the Board. I have outlined the proposals in the introduction above and I am satisfied that the additional recessing of the guardrail of no. 8 and the extended guardrail along the eastern boundary of no. 9 combined with the guardrail fins and height of 1.5m will ensure that there is no significant negative **overlooking** of the adjoining dwelling No. 28 to the east. Similarly, there is adequate separation distance between the rear of the development and the adjoining residential properties to the north to ensure no direct overlooking.

Daylight and Sunlight

- 7.4.4. In relation to loss of **daylight and sunlight/overshadowing**, the BRE Guidelines (Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice, 2011) note that bathrooms and circulation areas need not be analysed when considering impacts of development on adjoining buildings, and consideration of impacts is limited to rooms where daylight is required, including living rooms, kitchens and bedrooms. I note the shadow study submitted establishes limited impact on

immediate neighbours to the east and north of the development from overshadowing by virtue of the site aspect and established development patterns. I would agree.

- 7.4.5. *The sunlight and Daylight* report submitted confirms that each of the five windows assessed at the rear of No. 28 have a ratio of more than 0.80 of the current value after development and is in accordance with BRE guidance. I note the appellant n has made specific reference to the representative date of the 21st March with respect sunlight to the rear open space of No. 28. The modelling carried out is in accordance with the BRE guidance and demonstrates that on the representative date of the 21st March, no part of the rear yard of No. 28 is capable of receiving two hours of sunlight due to existing obstructions and further impacts on this space are not assessed. With respect to the rooflight the report determines an annual and winter ratio of more than 0.80 of the current value after development and is in accordance with BRE guidance. I am satisfied that in the context of the tight urban grain of the site and the established pattern of development, the impact of the development is negligible.

Construction Works

- 7.4.6. The third party appellants have raised concerns regarding construction management and the impact of the development on the structural stability of party walls, adjoining walls and adjoining structures.
- 7.4.7. In response the applicant states that *Preliminary Condition and Structural Assessment* submitted establishes the poor condition of the existing buildings and notes that if the buildings are to be left in their current condition and unoccupied there is no benefit to any party. I further note that the Consulting Engineer concluded that the party wall between the two structures are likely separate gable walls which abut each other, and that this will be verified on site. It is further stated that construction of the new structure will consist of standard construction practices and the applicant will be happy to accept a condition requiring the submission of a Construction Management Plan.
- 7.4.8. Given the scale of the new build proposed, and the proximity to protected structures and shared boundary walls, concerns regarding construction management are in my opinion an issue which can be addressed satisfactorily by way of a requirement for a

detailed construction and demolition management plan in the event that permission is granted.

7.5. Other Matters

7.5.1. Section 3.0 of the Civil Engineering and Infrastructure Report includes a **Site Flood Risk Assessment**. The report identifies that the site is marginally located in Flood Zone B with reference to “Poddle River Fluvial Flood Extent” maps.

7.5.2. I note the proposed development is defined as a *highly vulnerable development* with the Flood Risk Management Guidelines. As such a justification test is required. The report sets out that the nearest Node Point SO15331313 predicts water levels of 8.43 and 8.46 for the 1%AEP and 0.1% AEP events, respectively. The Coombe Street level adjacent to the site is at a level of approximately 11.300 and the proposed FFL 11.420, approx. The applicant is also proposed a second protective measure in the form of a demountable “slot-in” flood barriers which will provide a 600mm freeboard protections above the internal FFL and approx. 720mm free-board above the existing street level.

7.5.3. The applicant was requested by way of further information to revise the flood risk assessment proposals where the minimum finished floor level for the proposed development shall be a typically 500mm above street level. In response the applicant argues that this was not necessary as detailed flood risk assessment identified that the primary risk to the subject site from Fluvial flooding has been considered and it is proposed to form ground floor of the development in flood resistant construction and with an automatic flood barrier.

7.5.4. The Engineering Department – Drainage Division of Dublin City Council raised no objection to the development subject to appropriate conditions.

Drainage

7.5.5. The appellants contend that the nine additional dwellings have the potential to impact negatively on the drainage arrangements, which are already under pressure. In response the applicant argues that the existing development represents almost 100% site coverage discharging to the combined sewers. The proposed development includes SUDs measures and will reduce the volume of surface water

run-off into the combined sewer, reducing the impact from the site. I agree and I note the planning authority raised no concerns in this regard.

7.5.6. I further note that the foul flows associated with the proposed development are comparable to the previous commercial use of the buildings and are negligible.

7.6. **Appropriate Assessment**

7.6.1. The site is not located within or directly adjacent to any Natura 2000 sites.

7.6.2. A screening report for Appropriate Assessment was submitted with the planning application.

Stage 1 AA Screening Report

7.6.3. The applicants Stage 1 AA Screening report described the site, the location and the proposed development, it summarised the regulatory context, it carried out a desk top surveys and identified the European sites considered to fall within the zone of influence of the works. It confirmed that the proposed development would not be located within any European sites. Five European sites that could be affected were assessed; South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), South Dublin Bay SAC (Site Code 000210), North Dublin Bay SAC (Site Code 000206), and North Bull Island SPA (Site Code 004006), and the Poulaphouca Reservoir SPA (site code 4063) , from which drinking water supply for this development will originate. It described these sites and their respective qualifying habitats and species.

7.6.4. Appropriate Assessment Screening Assessment

Conservation Objectives: to maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC and SPA'S have been selected.

<i>European Site</i>	<i>Site Code</i>	<i>Relevant QI's and CI's</i>	<i>Distance</i>
South Dublin Bay SAC	000210	Mudflats and sandflats not covered by seawater at low tide	4.1km
South Dublin Bay and River Tolka Estuary SPA	004024	Light-bellied Brent Goose	4.4km

		<p>Oystercatcher</p> <p>Ringed Plover</p> <p>Grey Plover</p> <p>Knot</p> <p>Sanderling</p> <p>Dunlin</p> <p>Bar-tailed Godwit</p> <p>Redshank</p> <p>Black-headed Gull</p> <p>Roseate Tern</p> <p>Common Tern</p> <p>Arctic Tern</p> <p>Wetland and Water birds</p>	
North Dublin Bay SAC	000206	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Annual vegetation of drift lines [1210]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Embryonic shifting dunes [2110]</p> <p>Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) [2120]</p>	

		<p>Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130]</p> <p>Humid dune slacks [2190]</p> <p>Petalophyllum ralfsii (Petalwort) [1395]</p>	
North Bull Island SPA	004006	<p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Teal (Anas crecca) [A052]</p> <p>Pintail (Anas acuta) [A054]</p> <p>Shoveler (Anas clypeata) [A056]</p> <p>Oystercatcher (Haematopus ostralegus) [A130]</p> <p>Golden Plover (Pluvialis apricaria) [A140]</p> <p>Grey Plover (Pluvialis squatarola) [A141]</p> <p>Knot (Calidris canutus) [A143]</p> <p>Sanderling (Calidris alba) [A144]</p> <p>Dunlin (Calidris alpina) [A149]</p> <p>Black-tailed Godwit (Limosa limosa) [A156]</p> <p>Bar-tailed Godwit (Limosa lapponica) [A157]</p> <p>Curlew (Numenius arquata) [A160]</p>	

		Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]	
Poulaphouca Reservoir SPA	004063	The site is a Special Protection Area under the E.U. Birds Directive, of special conservation interest for the Greylag Goose and Lesser Black-backed Gull. Part of Poulaphouca Reservoir SPA is a Wildfowl Sanctuary.	c.24km

7.6.5. The Stage 1 AA screening report concluded that having regard to the brownfield nature and scale of the development and nature of the receiving environment, the proximity to the nearest European Site and the absence of a pathway, no Appropriate Assessment issues arise. I am satisfied that the Natura 2000 sites can be screened out from further assessment having regard to the separation distance from the site and the relevant qualifying interests.

7.6.6. There is an indirect hydrological pathway between the application site and the coastal sites listed above via the public drainage system and the Ringsend WWTP.

In Combination or Cumulative Effects

7.6.7. This project is taking place within the context of greater levels of built development and associated increases in residential density in the Dublin area. This can act in a cumulative manner through increased volumes to the Ringsend WWTP.

7.6.8. The expansion of the city is catered for through land use planning by the various planning authorities in the Dublin area. This has been subject to AA by the planning authority, which concluded that its implementation would not result in significant

adverse effects to the integrity of any Natura 2000 areas. I note also the development is for a small residential development consisting of nine apartments on serviced lands in an urban area and does not constitute a significant urban development in the context of the city. As such the proposal will not generate significant demands on the existing municipal sewers for foul water and surface water. Furthermore, I note upgrade works have commenced on the Ringsend Wastewater Treatment works extension permitted under ABP – PL.29N.YA0010 and the facility is subject to EPA licencing and associated Appropriate Assessment Screening.

- 7.6.9. It is reasonable to conclude that on the basis of the information on the file, which I considered adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, in view of the sites' conservation objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.

8.0 **Recommendation**

I recommend that planning permission be granted for the proposed development having regard to the reasons and considerations and subject to conditions as set out below.

9.0 **Reasons and Considerations**

Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity, the existing development on site and the policies of the Liberties Local Area Plan (extended 2020) and the Dublin City Development Plan 2016-2022, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would not detract from the character or Conservation Area or the setting of the adjacent Protected Structure. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further

plans and particulars submitted on the 11th May 2020 and by the further plans and particulars received by An Bord Pleanála on the 10th August 2020, 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. Details, including samples, of the materials, colours and textures of all the external finishes to the building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Details of the treatment of the communal open space within the development, including those of landscaping, planting, surface and boundary treatments, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity

4. Proposals for a building name, unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all building and street signs, and unit numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name

Reason: In the proper planning and orderly development

5. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, no additional plant, machinery or telecommunications structures shall be erected on the roof of the building; or any external fans, louvres or ducts be installed without a prior grant of planning permission.

Reason: In the interest of visual amenity.

6. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

7. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health

8. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 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.

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

10. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and 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. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

11. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall-

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site

12. 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.

13. The developer shall pay to the planning authority a financial contribution in respect of LUAS C1 Line Scheme in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Irené McCormack
Planning Inspector

19th October 2020