



An
Bord
Pleanála

Inspector's Report ABP-307591-20

Development	Demolition of buildings and construction of 2 no. apartment blocks ranging in height from 2 storeys to 5 storeys with a total of 38 no. apartments and all associated services.
Location	Gowan Motors Compound Site, 169-177, Merrion Road, Dublin 4.
Planning Authority	Dublin City Council
Planning Authority Reg. Ref.	4477/19
Applicant(s)	1 Merrion Land Ltd
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party vs. grant
Appellant(s)	Eamon O'Flynn & David Burlington
Observer(s)	1. Merrion Rd. Residents Association 2. Mary Austin 3. Owen Doyle
Date of Site Inspection	8th December 2020
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The site is located on Merrion Road, Dublin 4, c. 5km southeast of Dublin City Centre and 5km northwest of Dun Laoghaire. The site is positioned northwest of the junction between Merrion Road and Strand Road, which also includes a DART Railway Crossing. The site is bounded to the northeast by Merrion Road and adjoining dwellings, some of which are protected structures. To the south is a large site occupied by Caritas Convalescent Centre and St. Mary's Nursing Home, and to the northwest is a 4-storey apartment block know as 'Elm Court'.
- 1.2. Merrion Village, Elmpark Green Business Centre and St. Vincent's Hospital are all located within 500m of the site. Sydney Parade Dart Station is located c. 800m from the site and Dublin Bus services run along Merrion Road.
- 1.3. The site has a stated area of 0.28 ha. and mainly comprises an open tarmacked surface currently in use as temporary staff parking associated with St Vincent's Hospital. The site was previously used as a car compound by Gowan Motors. There is a storage shed within the site and 4 no. semi-detached dwellings fronting the public road. There is an existing vehicular access to the car park off Merrion Road, as well as separate accesses to the properties at 175 and 177. The south-eastern and western perimeter site boundaries are delineated by high stone / block walls.

2.0 Proposed Development

- 2.1. The development was amended through a 'further information' response and now comprises:
 - Demolition of buildings on site including numbers 169, 171, the shed at 173 and numbers 175 and 177 Merrion Road (total area c. 289 sq.m.)
 - Construction of 2 apartment blocks ranging in height from 2 storeys up to 5 storeys over basement with a total of 38 dwelling units comprising:
 - 11 one-bedroom apartments
 - 23 two-bedroom apartments
 - 4 three-bedroom apartments
 - A communal open space area at ground floor level

- 32 car parking spaces at basement level
- All associated site development works, services provision, cycle parking, bin stores, plant stores, open space, vehicular/pedestrian access, landscaping and boundary treatment works.

2.2 Building A is proposed to the front of the site along Merrion Road and ranges from 4 to 5-storey over basement. The 'Architectural Design Statement' accompanying the application outlines that this contemporary design takes inspiration from Dublin's traditional Georgian and Victorian houses, so that the development reads as a series of Victorian terraces forming a strong and clear urban edge along Merrion Road. Building B is designed as a 'mews terrace' to the rear of the site and ranges from 2 to 4-storey.

2.3 The two blocks are generally arranged around the northeast and southeast perimeters of the site, overlooking a communal open space that enjoys a southwestern aspect. Vehicular access is proposed at the north-western extremity of the site and leads to a basement level car park.

2.4 It is proposed that foul water from the development shall be discharged by gravity to the existing foul sewer in Merrion Road. Contaminated surface water from the basement will be pumped out to a gravity sewer prior to discharge. A new surface water sewer will be provided which will be entirely separated from the foul network and shall incorporate SUDS and attenuation. It is proposed to provide a new connection to the existing public mains water supply on Merrion Road.

2.5 The application, as originally submitted, consisted of a total of 43 apartments. However, this was reduced to 38 apartments as part of the applicant's response to the planning authority's request for Further Information.

3.0 Planning Authority Decision

3.1. Decision

By order dated 17th June 2020, Dublin City Council issued notification of the decision to grant planning permission subject to 24 largely standard conditions. Condition 4 (f)

would require that Apartment no. A01 be revised from a 3-bedroom to a 2-bedroom apartment.

3.2. Planning Authority Reports

3.2.1. Planning Report

The Planner's Reports are the basis for the Planning Authority decision. The initial report can be summarised as follows:

- The existing buildings are of little architectural merit and their demolition is welcomed to make way for better use of residential lands.
- The Planning Authority is in favour of higher densities, subject to balance in terms of design quality and impacts on the receiving environment.
- The surrounding area is low-rise and low-density and '*cannot realistically determine the building heights of new developments*'.
- The architectural quality of the scheme is high, but concerns are raised regarding the abrupt height transition from the adjacent Protected Structures.
- Concerns are raised about the impact of the proposed basement on the structural integrity of the Protected Structures.

A Further Information Request was issued which addressed the above concerns, as well as matters relating to overlooking mitigation measures; amenity and safety concerns about the proposed pedestrian access to Building B; and transportation planning items.

In the planner's subsequent report, the Further Information request response was deemed to satisfactorily address the above issues, subject to conditions. A grant of permission was recommended in accordance with the terms of the DCC notification of decision.

3.2.2. Other Technical Reports

The **Transportation Planning Division**, in their report of 10th January 2020, requested further information in relation to the access barrier provisions; sightlines; pedestrian priority provisions; refuse collection arrangements; motorcycle and bicycle parking. The subsequent report (21st May 2020) stated that the Further

Information response was satisfactory and there was no objection subject to conditions.

The **Engineering Department – Drainage Division** (reports dated 7th January and 12th May 2020) stated that there was no objection subject to conditions.

The **City Archaeologist** (report dated 6th January 2020) stated that there was no objection subject to conditions.

3.3. **Prescribed Bodies**

No submissions on file.

3.4. **Third-Party Observations**

A number of submissions were made in relation to the development. The issues raised are largely covered in the grounds of this appeal. Some additional issues were raised, as follows:

- Car parking facilities are inadequate;
- The proposal will not satisfactorily address housing needs;
- The development facilitates excessive car usage, thereby raising environmental and traffic concerns.

4.0 **Planning History**

4.1 The following applies to the appeal site:

ABP Ref. PL306386-20: Permission granted (20th May 2020) for retention of temporary car parking area of 64 spaces to serve St. Vincent's Hospital staff. Condition 2 limits the duration of the permission to 1 year from the date of the order.

ABP Ref. PL304167-19: Permission refused (9th July 2019) for demolition of existing buildings and construction of one apartment block ranging from 3-storey to 6-storey containing 42 apartments. The reasons for refusal can be summarised as follows:

1. The development would dominate the streetscape and adjoining protected structures and would be detrimental to the architectural character of the area.
2. The development would fail to establish a satisfactory standard of amenity for the occupants of the ground floor units.

ABP Ref. PL29S.226638: Permission refused (17th June 2008) for off-street car parking for four vehicles in the former side / rear garden to No. 177 Merrion Road. The reasons for refusal can be summarised as follows:

1. The development would result in disorderly and piecemeal development that would seriously injure and devalue the amenity of adjoining properties.
2. The development would endanger public safety by reason of a traffic hazard.

P.A. Ref. 3241/97: Permission refused (17th February 1998) for ten no. duplex apartments on grounds of traffic hazard, excessive height and injurious impacts on residential amenity.

- 4.2 There is a comprehensive planning history relating to the wider surrounding area. Of most relevance to this appeal is a proposal by the same applicant on the 'Gowan Motors' site located approximately 150 metres to the northwest of the appeal site.

ABP Ref No. 306756-20: Permission granted (28th July 2020) for the demolition of the existing two number car showroom buildings circa 1,069 square metres, construction of one number apartment block up to six storeys above basement with a total of 63 number dwelling units

5.0 Policy and Context

5.1. National Policy / Guidance

- 5.1.1 The **National Planning Framework (NPF)** is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains a number of policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 6 aims to regenerate cities with increased housing and employment;

- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location

5.1.2 Following the theme of ‘compact urban growth’ and NPO 13, **Urban Development and Building Heights, Guidelines for Planning Authorities (2018)** outlines the wider strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF.

5.1.3 **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)** sets out the key planning principles which should guide the assessment of planning applications for development in urban areas.

5.1.4 **Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018)** sets out the design parameters for apartments including locational consideration; apartment mix; internal dimensions and space; aspect; circulation; external amenity space; and car parking.

5.1.5 **Architectural Heritage Protection Guidelines for Planning Authorities** sets out detailed guidance to support planning authorities in their role to protect architectural heritage when a protected structure, a proposed protected structure or the exterior of a building within an ACA is the subject of development proposals. It also guides those carrying out works that would impact on such structures.

5.2. Development Plan

5.2.1 The site is zoned ‘Z1 Sustainable Residential Neighbourhoods’ in the Dublin City Development Plan 2016-2022, the objective for which is ‘*To protect, provide and improve residential amenities.*’ Residential use is a ‘Permissible Use’ within this zoning objective.

5.2.2 Section 4.5.3.1 relates to urban density and promotes sustainable density, compact development, and the efficient use of urban land. Chapter 5 outlines the Council’s approach to the provision of quality housing and encourages a good mix of house types and sizes with a satisfactory level of residential amenity.

5.2.3 Chapter 11 of the Plan deals with Built Heritage and Culture. Section 11.1.5.3 (Protected Structures – Policy Application) states that the Council will manage and control external and internal works that materially affect the character of Protected Structures. Relevant policies include (in summary):

CHC1 To seek the preservation of the built heritage of the city.

CHC2 To ensure that the special interest of protected structures and their curtilage is protected.

CHC4 To protect the special interest and character of all Conservation Areas

5.2.4 Chapter 16 sets out detailed policies and standards in respect of development proposals within the city. Section 16.2 “Design, Principles & Standards” provides design principles outlining that development should respect and enhance its context.

5.2.5 Section 16.2.2.2 discusses ‘Infill Development’ i.e. gap sites within existing areas of established urban form. It is particularly important that such development respects and enhances its context and is well integrated with its surroundings, ensuring a more coherent cityscape.

5.2.6 Section 16.7.2 includes height limits for development, including a 16m restriction for development in the Outer City and a 24m restriction for development within 500m of rail hubs.

5.2.7 Section 16.10.8 deals with ‘Backland Development’. It states that the Council will allow for comprehensive backland development where the opportunity exists.

5.2.8 Section 16.10.15 discourages any significant underground or basement development adjacent to Protected Structures or residential properties in Conservation Areas. Development of all basements below the estimated flood levels for Flood Zone areas A or B will not be permitted. The criteria for considering such applications is set out.

5.2.9 Chapter 10 deals with green infrastructure and recognises the benefits of trees in humanising spaces, enhancing the environment and minimising the effects of climate change. It includes the following policies:

GI28 To support the implementation of the Dublin City Tree Strategy

GI30 To encourage and promote tree planting in the planning and development of urban spaces, streets, roads and infrastructure projects.

5.2.10 Section 3.3.3 of the Dublin City Tree Strategy 2016-2022 states that:

'In the design of vehicular entrances, the impact on adjacent trees will need to be considered. Entrances should be located to avoid conflicts with street trees. Where a conflict is unavoidable and where a tree, located on-street, requires removal to facilitate a new or widened vehicular entrance and cannot be conveniently relocated within the public domain then a financial contribution will be required in lieu'.

5.3. **Natural Heritage Designations**

There are two designed Natura 2000 sites within c. 120m to the east of the site, namely South Dublin Bay SAC (site code 00210) and South Dublin Bay and River Tolka Estuary SPA (site code 004024).

5.4. **Environmental Impact Assessment - Preliminary Examination**

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.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The decision of DCC to grant permission has been appealed by Eamonn O'Flynn (179 Merrion Road) and David Burlington (181 Merrion Road). The grounds of appeal can be summarised as follows:

- There is no objection in principle to the development of the site, but the proposal is of excessive density, height, scale, bulk and mass.
- It would result in serious loss of privacy, light and amenity for adjoining properties.
- The proposal would seriously detract from the streetscape, including Protected Structures and other buildings of conservation value.

- The access/exit would cause serious traffic congestion and safety concerns and proposals in relation to the existing mature tree are unclear.
- The application does not address the previous planning history.
- The development would be out of character with the area and references to other larger developments are not applicable.
- Concerns are raised about the impact on the structural stability of properties, including Protected Structures.
- Concerns are raised about flood risk and damp penetration.
- There are concerns about prematurity and the need for consistency with the ongoing bus corridor design.
- Issues are raised about the clarity of some technical documents / drawings.

6.2. Applicant Response

The applicant's response to the grounds of appeal, compiled by McGill Planning and supported by PUNCH Consulting Engineers and Clare Hogan (Conservation Architect), can be summarised as follows:

- The local authority supports the proposal, including the need for the redevelopment of the site; the public transport links in the area; the suitability of the site for increased height and density; and the quality of the proposed design and layout.
- The development follows national policy and guidance relating to location, density, design, height etc.
- The proposal complies with Development Plan zoning and is of an appropriate density, height, massing and design for the area.
- A 'Conservation Opinion' is included, which contends that Merrion Road is not an area of consistent architectural style or character; the design balances respect for property boundaries with the need for sustainable residential use and contemporary architecture; and that this high-quality architectural design will enhance the character of the road and adjacent buildings.
- The amended design and the terms of the DCC decision ensures that the residential amenity of existing and proposed properties will be protected. The

response outlines that the use of opaque glazing will mitigate any potential overlooking sources; the development will not be adversely affected by proximity to the existing properties, including chimneys; the proposed use will be compatible with existing residential use; and that a 'Daylight, Sunlight and Shadow Analysis' has found that the development will not have significant impacts on external spaces or neighbouring properties.

- The development is sufficiently distanced from neighbouring properties and the application includes a Basement Impact Assessment (BIA) which concludes that the Protected Structure foundations are outside the zone of influence of the relevant works and any damage would be negligible.
- In terms of hydrogeology, the impact of the basement is expected to be minimal as it will be founded within the low permeability Sandy Gravelly Clay. Any potential artesian pressures will be balanced by the proposed CFA concreting method.
- A Site-Specific Flood Risk Assessment (SSFRA) has found that the development is at low risk of flooding and is appropriate at this location.
- Visibility splays for both the existing road arrangements and the Bus Connects proposal have demonstrated that the access/exit proposal, including retention of the existing street tree, is safe and acceptable subject to conditions.
- The proposed setback accommodates the requirements for the Bus Corridor and any future re-alignment of the road within the context of existing constraints.
- The statutory time periods and the need to appropriately assess and determine the application are outlined.
- The applicant questions the relevance of the planning history of the site in light of changes to national and local policy and the amendments incorporated into the current proposal.

6.3. Planning Authority Response

The Planning Authority did not respond to the grounds of appeal.

6.4. **Observations**

Three observation submissions have been received on the appeal from the following:

- Owen Doyle, 16 Estate Avenue, Merrion Road
- Mary Austin, 16 Estate Avenue, Merrion Road
- Merrion Road Residents Association, c/o Richard McDonald, 236 Merrion Rd.

The issues raised are covered in the grounds of appeal, with the exception of the Merrion Road Residents Association submission which contends that the development does not meet the housing needs of the community.

6.5 **Further responses**

The appellants have responded to the applicant's appeal response. The submission reiterates that they are not opposed to development of the site, but it is felt that the current proposal will have overwhelmingly negative impacts. In summary, the submission rejects the applicant's response and reiterates the grounds of appeal, particularly in relation to the unsuitability of the proposal to the area; the impact on Protected Structures; overshadowing and overlooking; and the potential for structural damage to Protected Structures.

7.0 **Assessment**

7.1. Having inspected the site and examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and having regard to relevant local/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Policy
- Visual amenity and architectural heritage
- Residential amenity
- Traffic and transport
- Structural integrity and groundwater
- Flooding

- Appropriate Assessment

7.2 Policy

- 7.2.1 The proposal involves the construction of a residential development on lands zoned for residential use (Z1) in the Development Plan. Consistent with national policy and guidance, the Development Plan also seeks to encourage the development of underutilised lands in appropriate locations. The existing and previous use of the site for vehicle parking / storage is considered an underutilisation of the site. Furthermore, having regard to their style and character, the existing buildings on site are not considered worthy of preservation. Accordingly, I consider that there is no objection in principle to the development of the site for residential use.
- 7.2.2 A total of 38 apartments is proposed on a stated site area of 0.28 hectares, resulting in a proposed density of c. 135 units per hectare. The blocks range from 2 to 5-stories over basement, with a maximum height of c. 22 metres above the adjoining road level.
- 7.2.3 The 2007 guidelines on *'Sustainable Residential Development in Urban Areas'* recommend that increased densities (minimum 50 per hectare) should be promoted within 500 metres walking distance of a bus stop, or within 1km of a rail stop/station. SPPR 1 of the 2018 guidelines on *'Urban Development and Building Heights'* also supports increased building height and density in locations with good transport accessibility and prohibits blanket numerical limitations on building height. It is also stated that suburban/edge locations can accommodate 4-storeys or more in appropriate circumstances, and SPPR 4 requires that development in such areas must secure the minimum densities set out in the 2007 guidelines and a greater mix of building heights and typologies.
- 7.2.4 Section 3 of the guidelines on *'Urban Development and Building Heights'* sets out the principles for the assessment of applications, which should adopt a general presumption in favour of increased height in town/city cores and urban locations with good public transport accessibility.
- 7.2.5 The subject site is located adjacent to high capacity bus routes and is within a 1km walk of Sydney Parade DART station and a substantial offer of other community, employment and business services. As well as its transport capacity, I also consider

that the 4-lane width of Merrion Road facilitates a greater capacity for increased building height.

7.2.6 Having regard to the above, I consider that the site is suitable in principle for increased height and density in excess of 50 units per hectare. The suitability of the proposed height and scale will be assessed on the basis of impacts on visual amenity, architectural heritage and residential amenity.

7.2.7 The site is within 500 metres of a rail hub and the height of the building would be less than the 24-metre restriction for such scenarios as set out in the Development Plan. The development would not, therefore, materially contravene the Development Plan.

7.3 Visual amenity and architectural heritage

7.3.1 Notwithstanding the potential for increased height and density, it is important that any such proposal responds positively to its context and protects the character of an area, particularly in relation to Protected Structures and Conservation Areas. In this regard it is acknowledged that the wider surrounding area is characterised by a wide variety of building style and scale, including buildings of 5 to 8 storeys on large and/or prominent sites. In the immediate vicinity of the site however, this stretch of Merrion Road is largely dominated by low-rise development, including three Protected Structures to the northeast of the site and a 'residential conservation area' on the opposite side of the road.

7.3.2 Section 3.2 of the '*Urban Development and Building Heights*' guidelines sets out the criteria for assessing proposals at the scale of the relevant neighbourhood or street. In summary, it is stated that developments should:

- Respond to the overall natural and built environment;
- Avoid monolithic appearance in terms of form and materials;
- Improve legibility and integrate in a cohesive manner;
- Contribute to the mix of uses and/or building/dwelling typologies.

7.3.3 Sited along Merrion Road, Building A is clearly of significant height and scale compared to existing development. In this regard I would agree with the view of the planning authority that the height and scale of existing development should not

necessarily determine restrictions for future development. Rather than attempting to replicate the existing scale and style, the development proposes a contemporary insertion that would have a significant impact on the existing streetscape.

- 7.3.4 In an attempt to assimilate within this streetscape, and particularly the adjoining Protected Structures (179, 181 and 183 Merrion Road), the proposal has incorporated a number of design features. To avoid a monolithic appearance, the rhythm and grain of the front façade has been broken down into separate sections using varying materials and colours, as well as a recessed and angled building line. In response to the planning authority's request for 'Further Information', the interface with the Protected Structures was also amended through a reduction in building height and an increased separation distance. The roof design is the most striking element of the proposal and incorporates a variety of heights, with angular pitches and planes punctuated by voids serving the accommodation within the roof space. It should be noted that the proposed design is of a similar character to the scheme permitted by the Board on the nearby 'Gowan Motors' site (ABP Ref No. 306756-20).
- 7.3.5 Building A adopts a graduated approach to building height, with eaves levels (above road level) of c. 8.5 metres at the northeast corner of the site adjoining No. 179, and c. 10.4 metres at the northwest corner adjoining the basement entrance. From these opposite ends the building gradually rises using steeply hipped roof planes to a maximum central height of c. 22 metres, thereby forming a mansard-like roof.
- 7.3.6 The challenge of integrating new development within existing neighbourhoods is acknowledged, particularly in the present case which involves existing low-rise Protected Structures and conservation areas. In this regard section 13.8.3 of the '*Architectural Heritage Protection Guidelines*' outlines that the impact of proposals will depend on location; the character and quality of the protected structure / ACA; its designed landscape and its setting.
- 7.3.7 In conclusion I consider that, subject to appropriate design, there is a recognised need to achieve development of greater scale and density on underutilised sites like this. While it is acknowledged that the built heritage of the immediate area is characterised by low-rise low-density development, I consider that it includes a varied collection of styles and quality, with no consistent architectural character. On

this basis I do not consider that there are reasons of visual amenity or architectural heritage to warrant an overly restrictive approach to the site.

7.3.8 I consider that the proposed contemporary design approach is the appropriate response to the site context, and that the proposal will positively contribute to the mix of uses and building typologies in the area. The character of Building A will provide an appropriate juxtaposition in the streetscape and suitably distinguishes between the historic and contemporary, avoiding any suggestion of pastiche. The proposed design is of an appropriate massing and form and I consider that the stepped building height provides an appropriate transition between existing and proposed development. The building is of a high architectural quality and will make a positive contribution towards the ongoing evolution of the character of the area.

7.3.9 Building B is to be setback to the rear of the site. Its maximum ridge level (20.4m) is just below the lowest ridge level of Building A (20.5m) but is significantly lower than the other ridge levels to the front of the site (ranging from 23.3m to 26.3m). On that basis I consider that it would be largely screened by existing development and Building A and would not significantly detract from the character of the area.

7.3.10 In conclusion, I consider that the proposed development would not seriously detract from the character and setting of the surrounding Protected Structures and architectural heritage and can be accommodated at this location without seriously detracting for the visual amenity of the area.

7.4 Residential amenity

7.4.1 Dealing firstly with the proposed development itself, it is noted that a range of apartment types are proposed, consisting of 11 one-bedroom units (c. 29%), 23 two-bedroom units (c.60.5%), and 4 three-bedroom units (c.10.5%). I consider that this provides an acceptable mix of units in accordance with SPPR 1 of '*Design Standards for New Apartments*'.

7.4.2 The application includes a 'Housing Quality Assessment' in the context of the apartment standards, which provides a detailed breakdown of the unit/room areas, unit aspects and floor to ceiling heights proposed. In this regard I note that:

- the majority of apartments exceed the minimum floor areas by 10%;
- well in excess of 33% the apartments are dual aspect;

- minimum ceiling heights are 2.7m at ground floor and 2.5m on upper floors;
- the number of apartments per floor per lift/stair core does not exceed 12; and
- the units accommodate adequate room areas/dimensions, storage space and private amenity space in accordance with Appendix 1 of the guidelines;

7.4.3 In terms of communal facilities I note that a segregated waste collection area is located at basement level. Based on the 'Operational Waste Management Plan' originally submitted, I consider that the reduced number of units (38) would require 6 no. 1,100 litre bins per week. The basement waste storage area has adequate capacity for this quantity and appropriate collection measures are proposed.

7.4.4 Based on Appendix 1 of the apartment standards guidelines, the proposed development requires a minimum communal open space area of 252 sq.m. The proposed development provides a communal area of 752 sq.m. and includes a children's playground. The area is appropriately accessible and overlooked by the proposed units and will be finished with a mixture of hard and soft landscaping.

7.4.5 Having regard to the above I consider that the proposed development provides an appropriate level of residential amenity for the prospective occupants of the units.

7.4.6 Turning now to the matter of adjoining properties, I will deal firstly with the question of **overlooking**. In this regard I consider that the vast majority of properties in the area are adequately distanced to prevent any significant overlooking and, accordingly, I will focus on the properties along Merrion Road that immediately adjoin the site.

7.4.7 It is proposed to demolish no. 169, which is attached to the adjoining property to the north (no. 167). I consider that any potential concerns associated with these demolition works can be satisfactorily addressed by means of construction proposals to be agreed, as suggested in the conditions of the planning authority decision. At operational stage I note that all upper floor windows and balconies on the northwest side elevation of Building A will incorporate frosted glazing and I am satisfied that this will satisfactorily prevent any overlooking of property no.'s 165 and 167.

7.4.8 To the northeast of the site I note the presence of no.'s 179, 181 and 183, and that concerns have been raised in the appeal about overlooking of these properties. Again, I note that frosted glazing has been incorporated into the southeast side

elevation of Building A. To the rear of these properties, any openings on the side elevation of Building B are suitably screened by balcony walls to a height of 1.8 metres.

7.4.9 Having regard to the above I am satisfied that any potential overlooking concerns relating to properties within relevant distance to the development will be appropriately mitigated in the proposed design. While obscured glazing is not always a satisfactory measure, I consider it acceptable in this case given that these windows are not the primary sources of light and ventilation. The documentation included in the application confirms that all living areas and bedrooms within the proposed development will meet or exceed the recommended daylight factors outlined in the relevant guidance and British Standards.

7.4.10 I also note that **overshadowing** has been raised as a concern in the appeal. In this regard the application includes a '*Daylight, Sunlight & Shadow Analysis Report*', which was prepared in accordance with BS 8206-2:2008 and the BRE guidance '*Site Layout Planning for Daylight and Sunlight*', and with reference to the scheme as originally proposed. The amended scheme, submitted in response to the Further Information request, involves reduced height and increased separation from surrounding properties and, accordingly, would further reduce any identified impacts.

7.4.11 The overshadowing assessment confirms that the proposed development will not have a significant impact on private gardens, amenity spaces, or public spaces within the site curtilage or on neighbouring properties. In all relevant spaces at least half of the area receives at least 2 hours of sunlight on 21st March, the date recommended in the BRE guidance as illustrating an average level of overshadowing for the year. While it is acknowledged that this level will fluctuate throughout the year, I consider that this is a reasonable approach and is a generally accepted planning standard which is also referenced in the Development Plan. While the cottages to the northeast will experience a reduction in sunlight, I consider the impact acceptable given that they will still receive 6 hours on this date and will only be affected after 3pm. The cottages to the northwest will still receive 3 hours sunlight, which is a relatively small reduction compared to current levels (5 hours) and will not have an impact after 10am.

7.4.12 Aside from the external spaces, I would agree with the findings of the report that the development will have a slight impact on direct sunlight to the adjacent homes. I consider that this will be limited to sunrise or sunset hours and is acceptable in the context of the urban location of the site.

7.4.13 Otherwise, I consider that the proposed development is appropriately distanced from existing properties, and adopts an appropriately graduated approach to building height, to ensure that the proposal will not have any unacceptable **overbearing** impacts on the surrounding environment. Having regard to the above, I do not consider that the proposed development would seriously injure the residential amenity of properties at this location.

7.5 Traffic and transport

7.5.1 The application includes several supporting documents and drawings prepared by PUNCH Consulting Engineers. A Traffic and Transport Assessment was prepared to assess the impact of the development on the capacity of the existing transport network. The report considers the existing and proposed transport services that are relevant to the site, including the 'BusConnects' Core Bus Corridor proposal and the planned cycle route along Merrion Road. It is acknowledged that the report was prepared based on the larger scheme originally proposed (43 units).

7.5.2 The assessment includes traffic counts taken on Merrion Road and an estimation of the likely volumes of traffic generated by the proposed development. The results show a small increase in the morning departures and evening arrivals, as well as a reduction in the number of morning arrivals. Future baseline traffic growth was not estimated as the development will generate only minimal traffic. In terms of modal split and having regard to available statistics and the availability of sustainable travel modes, the assessment contends that the development would not be overly dependent on car usage. It is also noted that a Mobility Management Plan has been submitted with the application with the aim of monitoring and influencing modal split. I would agree with the conclusions of the assessment that the development, at both construction and operational stage, will have no significant adverse impacts on local traffic flows and junctions.

7.5.3 In response to the further information request the applicant submitted additional detail on the access/exit arrangements, including details of sightline availability

based on the current context and the future 'BusConnects' proposal. I note that sightlines of 49 metres are available in both scenarios and that this is in accordance with DMURS requirements and has been deemed acceptable by the Transportation Division of the planning authority. While I acknowledge that the final design for the 'BusConnects' project has yet to be completed, I consider that the proposed development has taken all reasonable steps to ensure its accommodation and I note that the planning authority has engaged with the NTA in this regard. Any amendments to the design can likely be accommodated and, accordingly, I do not consider the proposed development premature in this regard.

7.5.4 In terms of parking, the basement level of the proposed development accommodates spaces for 32 cars, 7 motorbikes and 100 bicycles. The Development Plan establishes that car parking requirements may be reduced in areas that are well served by public transport, which is the case with the current site. The site is located within Zone 2 for the purposes of car parking calculation and Table 16.1 of the Plan outlines that the maximum parking standard is 1 space per dwelling. The proposal for 32 spaces to serve 38 apartments is considered appropriate. It ensures adequate parking capacity whilst also avoiding an overdependence on car usage. This is reflected by generous cycle parking facilities for 100 spaces, significantly above the Development Plan requirement for 1 per apartment. In accordance with section 16.38.6 of the Plan, the proposed motorcycle spaces exceed 4% of the total no. of car spaces. The application includes a Car Park Management Plan which is considered acceptable.

7.5.5 Having regard to the above, I am satisfied that the proposed development will not have a significant impact on the safety and free flow of traffic at this location. The application satisfactorily accommodates the planned transportation upgrades for Merrion Road and is designed to encourage sustainable modes of travel in accordance with local and national transport policy.

7.6 **Structural Integrity and groundwater**

7.6.1 The appeal raises concerns about the structural and groundwater impacts of the proposed development on adjoining properties, including Protected Structures. These concerns relate particularly to the proposed underground basement level of the development.

7.6.2 In the response to the planning authority’s Further Information request, the applicant has submitted a ‘Site Investigations and Basement Impact Assessment Report’ (BIA) and an ‘Outline Basement Construction Method Statement’. The report is based on a desk study and intrusive ground investigation works including boreholes; groundwater monitoring; trial pits; as well as soil, waste and water testing. The assessment was carried out by qualified engineering experts in accordance with DCC guidelines.

7.6.3 The scoping and site investigations process identifies potential impacts and consequences as summarised in Table 1, overleaf.

Table 1: Potential impacts and consequences

Potential Impact	Consequence
Site located directly above an aquifer	Basements may place the groundwater and surrounding environment at risk
Basement founding depth will be lower relative to neighbours	If not designed and constructed appropriately, may result in structural damage
Site bounded by Merion Road and footpath	May result in structural damage

7.6.4 The ground condition investigations found that, below a thick layer of made ground, clay (glacial till) was encountered and proved to the full depth of the investigation. Groundwater was encountered and details of the individual water strikes are outlined in the report. Soil samples did not identify elevated concentrations of contamination.

7.6.5 The design basis report outlines that excavations for the basement structure will require temporary support in the form of a contiguous piled wall to prevent excessive ground movement. Groundwater control will be employed during construction by way of a sump and pump. The report contends that the foundation level of the basement is likely to be within the stiff clay layer that should provide a suitable bearing stratum.

7.6.6 A ‘Ground Movement Assessment’ has been carried out as part of the report. The analysis indicates that ground movement within the basement beyond the perimeter of the excavation is expected to be nominal in the short-term (<1mm) and negligible in the long-term (<2.5mm), and that movements will be constrained by the

embedded retaining walls. In terms of ground movements surrounding the basement, the analysis indicates that the maximum vertical and horizontal movements from the combined wall installation and excavation phases are likely to be 20mm.

7.6.7 A 'Damage Impact Assessment' of neighbouring structures has been completed which predicts, based on mitigation measures and rationalisations due to experience, that the development may generally result in damage of Category 0 (negligible) and Category 1 (very slight). The report contends that this would be aesthetic and not structural damage. Measures are included for the monitoring of ground movement during construction.

7.6.8 The 'Groundwater Assessment' indicates that a significant depth of stiff low permeability clay will remain between the underlying aquifer and basement after construction, and as such the risk posed is limited. The embedded retaining wall around the basement perimeter is not expected to encounter bedrock and the aquifer and water table will remain unaffected. Construction techniques would ensure that any artesian pressures encountered will be appropriately balanced. Adopting TII guidance for road scheme construction, the report concludes that the hydrogeological impact of the development would be imperceptible. Detailed design considerations are also outlined to prevent any potential groundwater impacts.

7.6.9 The BIA concludes that the development is unlikely to result in issues relating to groundwater, stability, surface water / flooding, or cumulative effects that cannot be mitigated in the detailed design and construction of the development.

7.6.10 Having regard to the above, I consider that a comprehensive assessment has been carried out by competent professionals on the potential impacts of the development on adjoining properties. Whilst all such assessments are subject to further monitoring at construction stage, I consider that appropriate measures have been included to satisfactorily avoid and/or mitigate any potential structural impacts. In conclusion I am satisfied that the proposed development, subject to conditions, does not involve unacceptable impacts in relation to ground stability and groundwater.

7.7 **Flooding**

7.7.1 In addition to the groundwater assessment outlined above, a flood risk assessment has been carried out on behalf of the applicant. The report outlines that there is no

risk associated with coastal, fluvial or pluvial flooding as the site is not identified as a flood risk in either the OPW or Development Plan SFRA mapping. A review of historic flood events indicates that the subject site has not been affected.

7.7.2 The proposed surface water drainage network on site is designed to cater for the 100-year return period plus 20% climate change allowance, which is in accordance with the Greater Dublin Code of Practice for Drainage Works.

7.7.3 Having regard to the above and considering the groundwater assessment and surface water management proposals submitted with the application, I consider that the proposed development is not at risk of flooding and is not likely to cause an increase in flooding elsewhere.

7.8 **Other issues**

7.8.1 The concerns raised in the appeal regarding procedural issues and the drawings and documentation submitted are noted. I consider that adequate information and drawings have been submitted to facilitate the assessment and determination of the application in accordance with statutory provisions.

7.8.2 The planning history of the site is acknowledged, including previous decisions to refuse permission. However, the current proposal is significantly different to previous applications and must be considered on its merits in the context of the current local and national planning policy.

7.8.3 It is noted that the site is located to the north of Recorded Monument DU023-001 (tower house site) and that the DCC City Archaeologist has recommended that any permission should be subject to an Archaeological Impact Assessment (including test trenching).

7.8.4 The proposed development does not include the provision of public open space and I note that the DCC planner's report indicated that this could be dealt with by means of a financial contribution in lieu. However, this intention was not reflected in the calculation of the contribution as set out in documentation on file. I note that the DCC Development Contribution Scheme already covers the requirement for a contribution of €4,000 per unit in such cases and, accordingly, section 48 (2)(c) of the Act need not apply.

- 7.8.5 The planning authority raised concerns about the level of internal and external amenity provided for apartment no. A01. Having reviewed the matter I would concur that the reduction of this apartment to a 2-bedroom version would offer an improved level of amenity and the layout of this unit could be agreed by condition. I note that the applicant has not raised any objection in this regard.
- 7.8.6 The appeal documentation raises some doubt regarding the retention of the existing street tree along Merrion Road. Originally, the application made clear statements that the tree is to be removed as part of the development and that it is likely to be removed in any case as part of the 'BusConnects' project. However, the planning authority interpreted the visibility splay drawing no. 192295-V001 as evidence that it is not necessary to remove the tree to achieve adequate sightlines and condition 13 (e) of the DCC decision requires its retention and protection. In response to the appeal, the applicant's planning consultant has now confirmed that there is no objection to the retention of the tree and compliance with the terms of condition 13 (e). Having inspected the site and the drawings submitted and having regard to the amenity value of the tree and traffic conditions at this location, I consider that the retention of the tree would be appropriate and can be achieved without causing a traffic hazard. Whether or not the removal of the tree is required to facilitate future transportation improvements is a matter for assessment at the time of any such application.

8.0 Appropriate Assessment

8.1 Legislative requirements

- 8.1.1 The requirements of Article 6(3) of the Habitats Directive, as related to screening the need for Appropriate Assessment of a project under Part XAB (section 177U) of the Planning and Development Act 2000 (as amended), are considered fully in this assessment.
- 8.1.2 Having reviewed the documents, drawings and submissions included in the appeal file, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

8.1.3 The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development would have any possible interaction that would be likely to have significant effects on a European Site(s).

8.1.4 In summary, the development comprises:

- Demolition of buildings on site including the numbers 169, 171, the shed at 173 and numbers 175 and 177 Merrion Road (total area c. 289 sq.m.)
- Construction of 2 apartment blocks ranging in height from 2 storeys up to 5 storeys with a total of 38 apartments and associated works and services.

8.1.5 It is proposed that foul water from the development shall be discharged by gravity to the existing foul sewer in Merrion Road. Contaminated surface water from the basement will be pumped out to a gravity sewer prior to discharge. A new surface water sewer will be provided which will be entirely separated from the foul network and shall incorporate SUDS and attenuation.

8.2 Submissions and observations

There have been no submissions from prescribed bodies. No submission or observation from a member of the public has raised the issue of Natura 2000 sites.

8.3 European Sites

There are two designed Natura 2000 sites within c. 120m to the east of the site, namely South Dublin Bay SAC (site code 00210) and South Dublin Bay and River Tolka Estuary SPA (site code 004024). A summary of these sites is presented in Table 2 below. Having regard to the nature and scale of the proposed development, I do not consider that there are any other European Sites within the potential zone of influence.

Table 2 – Summary of European Sites within a possible zone of influence of the development

European Site (Code)	List of Qualifying Interests / Special conservation interest	Distance from proposed development (metres)	Connections (source, pathway, receptor)	Considered further in screening (Yes/No)
	Light-bellied Brent Goose (Branta bernicla hrota) [A046]	c. 100	Potential pathway via	Yes

South Dublin Bay and River Tolka Estuary SPA (004024)	Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Ringed Plover (<i>Charadrius hiaticula</i>) [A137] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Redshank (<i>Tringa totanus</i>) [A162] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Roseate Tern (<i>Sterna dougallii</i>) [A192] Common Tern (<i>Sterna hirundo</i>) [A193] Arctic Tern (<i>Sterna paradisaea</i>) [A194] Wetland and Waterbirds [A999]		groundwater flows and wastewater connection to Ringsend WWTP	
South Dublin Bay SAC (000210)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	c. 100	Potential pathway via groundwater flows and wastewater connection to Ringsend WWTP.	Yes

8.4 Identification of likely effects

8.4.1 At construction stage it is proposed to excavate a basement level car park above an underlying aquifer, which raises the question about potential **construction-related pollution**. However, the application includes a 'Groundwater Assessment' which indicates that a significant depth of stiff low permeability clay will remain between the underlying aquifer and basement after construction, and as such the risk posed is limited. The embedded retaining wall around the basement perimeter is not expected to encounter bedrock and the aquifer and water table will remain unaffected. Construction techniques would ensure that any artesian pressures encountered will

be appropriately balanced. Adopting TII guidance for road scheme construction, the report concludes that the hydrogeological impact of the development would be imperceptible. Detailed design considerations are also outlined to prevent any potential groundwater impacts. I consider that the construction techniques and detailed design considerations outlined in the application are standard basement construction measures and do not constitute mitigation measures designed to avoid or reduce potential impacts on Natura 2000 sites.

- 8.4.2 Having regard to the location and scale of the proposed development, I do not consider that construction-related noise is likely to disturb any habitats or species associated with the European Sites. Otherwise I do not consider that further pathways exist for construction-related pollution or disturbance.
- 8.4.3 In terms of **habitat loss / fragmentation**, it should be noted that no part of the development site is located within any European Sites and that there will be no direct loss of habitat. South Dublin Bay and River Tolka Estuary SPA and South Dublin Bay SAC are all located c. 100 metres from the site and, accordingly, having regard to the scale of the development, it is not considered that there is potential for habitat loss or fragmentation by reason of disturbance or otherwise.
- 8.4.4 With regard to **habitat / species disturbance** at operational stage, it is acknowledged that there will be surface water and wastewater emissions to Dublin Bay. However, I would consider that the minor scale of the proposed development would have an insignificant impact in the context of the overall capacity of the foul and surface water network.
- 8.4.5 In terms of cumulative effects, the development must be considered in the context of various other projects around the bay area. As previously outlined, the proposed development would not be considered to have a significant cumulative impact in respect of the existing wastewater and surface water loading. Similarly, it is not considered that any disturbance as a result of the construction works would be significant due to its minor scale and short-term duration. The implementation of the Water Framework Directive, the policies of the Greater Dublin Drainage Study and the upgrade of the Ringsend treatment plant will see improvements to the water quality in Dublin Bay.

8.5 Mitigation measures

I consider that all measures associated with the proposed development are best practice construction techniques. Accordingly, no measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

8.6 Screening Determination

The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

9.0 Recommendation

I recommend that planning permission for the proposed development should be **granted** for the reason and considerations, as set out below.

10.0 Reasons and Considerations

The site is located within a well-serviced area in proximity to the city centre, public transport facilities and a good local road network, and with a wide range of community and social facilities. Having regard to the provisions of the Dublin City Council Development Plan 2016-2022; the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018); the Urban Development and Building Heights, Guidelines for Planning Authorities (2018); and the National Planning Framework which seeks to direct new residential development in cities into built-up serviced areas, and having regard to the pattern and character of development in the area and the design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the

residential or visual amenities of the area, would not seriously detract from the character or setting of the adjoining Protected Structures and conservation area, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 comprising a total of 38 apartments submitted to the planning authority on the 22nd day of April, 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 of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

4. Water supply and 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

5. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health

6. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

7. Public lighting shall be provided in accordance with a scheme, (which shall include lighting along pedestrian routes through open spaces) details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any apartment.

Reason: In the interest of amenity and public safety.

8. Proposals for a development name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and house numbers shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements / marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

9. Communal waste storage areas within the basement shall be designed and managed in accordance with the proposals within the Outline Operational Waste Management Plan lodged with the planning application. Waste materials shall be transferred to the designated surface level space on the day of collection only.

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

10. A minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

11. Prior to the occupation of the development, a Mobility Management Plan (including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns) shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The interim or temporary strategy, where applicable, should reflect the requirements of DMURS Interim Advice Note – Covid Pandemic Response (May, 2020). The mobility plan shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.

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

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

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

13. (a) 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.

(b) Prior to demolition, a full site appraisal shall be undertaken by a specialist contractor to determine the possibility of hazardous material such as asbestos and any necessary mitigation measures as indicated in the Outline Construction Management Plan submitted with the application. Any asbestos containing materials identified shall be removed by a licence waste contractor.

Reason: In the interest of sustainable waste management.

14. Opaque glazing to side balconies and side elevations of Building A shall be implemented as indicated in the further information submitted to the planning authority on the 22nd day of April, 2020.

Reason: In the interest of privacy and residential amenity.

15. The following requirements shall be provided for and adhered to in the development:
- (a) The basement level car parking spaces shall be for the sole use of resident / visitor parking and shall not be sold, sublet or leased to third parties.
 - (b) The car park shall be managed in accordance with the Car Park Management Plan submitted to the planning authority on the 22nd day of April, 2020.
 - (c) Alterations to the public road and footpath including the interface between the footpath and private property shall be in accordance with the requirements of the planning authority.
 - (d) All repairs to the public road and services that may be required shall be carried out to the satisfaction of the planning authority at the applicant's expense.

Reason: In the interests of clarity, public safety and amenity.

16. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

17. a) The London Plane street tree to the front of the site shall be retained and protected from damage during construction.
- b) Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the street tree on the footpath to the front of the site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such

security, or part thereof, to the satisfactory protection of the tree or the replacement of the tree in the event that it dies, is removed or becomes seriously damaged or diseased within a period of three years from the substantial completion of the development with another of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

c) The landscaping scheme shown on the Landscape Plan drawing number PP-13, as submitted to the planning authority on the 22nd day of April, 2020, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity and tree protection.

18. No additional development, including lift motor enclosures, air handling equipment, storage tanks, ducts or external plant, or telecommunication antennas, shall be erected at roof level other than those shown on the plans and particulars lodged with the application. All equipment such as extraction ventilation systems and refrigerator condenser units shall be insulated and positioned so as not to cause noise, odour or nuisance at sensitive locations.

Reason: In the interests of visual and residential amenities.

19. Hours of work shall be confined to 0700 to 1900 Mondays to Fridays inclusive, excluding bank holidays and 0800 to 1400 hours on Saturdays. Deviation from these times will only be allowed in exceptional circumstances subject to the prior written agreement of the planning authority.

Reason: In the interest of residential amenities of surrounding properties and in the interest of clarity.

20. The following amendments shall be complied with:

- a) The 4 proposed visitor cycle spaces shall be relocated to facilitate an increased area of private open space to the front of Apartment A01.
- b) The layout of Apartment A01 shall be amended to omit the bedroom containing a single window facing onto the basement ramp. The floor plan shall be amended accordingly to provide a 2-bedroom apartment with an improved level of residential amenity.

Proposals in this respect, including detailed drawings, shall be submitted for the written agreement of the planning authority prior to commencement of development on site.

Reason: In the interest of residential amenity.

21. Prior to the commencement of demolition works, the developer shall submit, for the written agreement of the planning authority, details of the proposed repair/reinstatement works to the adjacent exposed gable following the demolition of Buildings No. 1 and 2 as shown on drawing no. PP-02 submitted to the planning authority on the 15th day of November 2019.

Reason: In the interest of visual amenity.

22. The measures outlined in the Basement Impact Assessment Report and Outline Basement Construction Method Statement prepared by Punch Engineering, including monitoring measures during construction stage, shall be implemented in full.

Reason: In the interest of orderly development and protecting ground stability.

23. The following transportation requirements shall be complied with:

- a) Balconies shall not oversail and doors facing Merrion Road shall not encroach upon the proposed Core Bus Corridor setback, as represented in drawings submitted to the planning authority on the 22nd day of April 2020.
- b) A raised pedestrian crossing shall be provided at the vehicular access.

Proposals in this respect, including detailed drawings, shall be submitted for the written agreement of the planning authority prior to commencement of development on site.

Reason: In the interest of traffic safety and free flow.

24. Boundary treatment shall be in accordance with the requirements of the planning authority, details of which shall be submitted for the written agreement of the planning authority prior to commencement of development.

Reason: In the interest of visual and residential amenity.

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

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

26. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

27. 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.

Stephen Ward
Senior Planning Inspector
15th December 2020