



An
Bord
Pleanála

Inspector's Report ABP-307609-20.

Development	Mixed use development with 9 no. apartments, up to 5 storeys.
Location	113, Phibsborough Road, Dublin 7.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	4791/19
Applicant	Stateside Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellants	Cuala Property Management Saltcross Ltd.
Observer(s)	None
Date of Site Inspection	10 th February 2021
Inspector	Philip Davis.

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1.0 Introduction

This appeal is against the decision of the planning authority to grant permission for a mixed-use development on a prominent corner site where the Phibsborough Road crosses the Royal Canal. Two local property interests – the adjoining pub and a nearby apartment management company - have appealed, both citing a range of concerns including external design and traffic implications.

A similar proposed development on the site was refused on appeal to the Board in 2019 (**ABP-304280-19**).

2.0 Site Location and Description

2.1. Phibsborough Road area

The appeal site is located in the mature inner suburb of Phibsborough, an area that developed incrementally from the late 18th Century onwards, with a peak of residential construction around the late 19th Century. The Royal Canal runs through the area, forming the traditional northern boundary of the inner city. Early OS maps show a linear line of residential and commercial developments extending north from the city and Phibsborough Village along Phibsborough Road, with commercial buildings lining both sides of the canal. In the mid-19th Centuries railway tracks more or less following the line of the canal cut through the northern side of the area. By the late 19th Century, the area was mostly built up with new residential avenues, many smaller infill schemes of mostly 2 storey terraced houses, with some institutional uses and small sized commercial uses still operating along the canal and along the main roads. The area is still predominantly residential, with some of the former warehouses along the canal converted to residential use and retail along the main road. The canal is increasingly in use as a leisure walk/cycleway. The building stock is dominated by 2-3 storey late 19th and early 20th century terraces, with some larger commercial buildings and occasional larger modern residential apartment blocks.

2.2. Appeal site

The appeal site is a prominent corner site where Phibsborough Road crosses the Royal Canal at Westmoreland Bridge. It is a rectangular site on the eastern side of the road, and south of the canal with a site area given as 0.025 hectares. The site is currently empty and boarded up, with some ruined structures within it and has temporary hoardings around it. It drops distinctly in level from the roadside to the east.

To the **north** of the site is a narrow lane, Eglington Terrace (in some maps referred to as Canal Bankside), this follows the canal for around 100 metres before running due south along the western boundary of Mountjoy Prison. This road runs along what would have been the southern towpath of the canal, although this is intermittent for much of this length. The main walk/cycleway is on the northern side of the canal at this point. North of this walk/cycle path, there is a deep retained structure with a railway line, and beyond this a large public house, the Bernard Shaw.

Immediately **east** of the site is narrow lane providing access to the public house to the south, and beyond this a single storey structure containing the Cross Guns Snooker centre.

To the **south** of the site are two public houses, the bald Eagle and Cross Guns. These are 2 storey hipped roof buildings dating from around the late 18th or early 19th Century. Further south is another commercial building, with predominantly terraced 2-storey dwellings with front gardens continuing along the Phibsborough Road.

West of the site is the main road, Phibsborough Road (N2), one of the main trunk roads into and leaving the city centre from the north. There is a single carriageway for traffic each way and a narrow bus and cycle lane on either side. The road narrows distinctly crossing the canal. Opposite the road is a three storey office building, of late 20th century origin, and beyond this apartments ranging from 3 to 6 storeys in height, some modern, some part of the restoration of a large stone mill building, the former Dublin Flour Mills.

The area is served by a range of Dublin bus routes, including routes 4, 9, 83, 140, 155 and 155 and is approximately 25 minutes walk from Broombridge railway and Luas station.

3.0 Proposed Development

The proposed development (in summary) is described on the site notices as a mixed-use development of:

- 9 no. apartments comprising 3 no. 2-bedroom and 6 no. 1-bedroom units
- A ground level cafe unit,
- Part basement level to accommodate bike storage for 30 no. bicycles, refuse storage, surface water attenuation tank and all other plant and storage.

Plus all associated works.

4.0 Planning Authority Decision

4.1. Decision

The planning authority decided to grant permission subject to 26 no. generally standard conditions. Condition 4 specifies that additional kitchen windows be provided to each apartment on the eastern elevation.

4.2. Planning Authority Reports

4.2.1. Planning Reports

- Notes that the area is in a Z1 area with the objective to protect, provide and improve residential amenities, and is located adjacent to the Royal Canal Conservation Area. It is noted that there is a discrepancy in the maps for the development plan – it is confirmed that it is considered to be within the Inner City, for the purposes of policy. It is also within the area of the non-statutory Phibsborough Local Environmental Improvements Plan 2017-2022.
- The policies associated with such zone 1 areas are set out – mostly under section 14.8.1 of the Dublin City Development Plan. Other relevant policies are summarised.
- Notes the refusal by ABP (three reasons) for a previous application (**ABP-304280-19**), 3706/18.

- Outlines other relevant previous permissions and refusals on the site and adjoining areas.
- Notes four observations, two in favour, two setting out objections.
- It is noted that in Volume 2 of the Development Plan it states that a maximum height of 24 metres is permissible for residential developments – the proposed development is 17.2 metres in height. The principle of the development is considered acceptable, but further information on finishes is required.
- It is noted that the applicant claims there are 30 bike spaces, but the plans indicate a smaller capacity – more clarification is needed.
- It is noted that the site is adjacent to the outdoor seating area of the adjoining public house, but notes that there are no overlooking balconies or living areas in immediate proximity to this.
- Notwithstanding some submissions, it is concluded that there is no issue with overlooking of neighbouring properties. It is considered that due to the nature of the adjoining buildings and the orientation of the proposed structure, overshadowing is within the bounds of acceptability.
- It is noted that the site is well served by public transport, so no parking spaces within the proposed development is acceptable, although concerns are noted about the small bike storage area.
- It is considered that having regard to the restricted nature of the site, it is considered acceptable that there is no open space provided.
- It is noted that there are concerns about pluvial flooding.
- A valid Social Housing Exemption cert had been submitted.
- There is no problem with the proposed café use having regard to the nature of the site and the area.
- No AA screening was submitted, one was requested on FI.
- A request for further information was sent out.
- Subsequent to the above FI request, further information was submitted on the 22nd of April 2020. This included a written response, an overshadowing study

report, a flood risk assessment, an acoustic assessment, a health and safety plan and a cycle parking assessment.

- A second planners report stated that all the information submitted was satisfactory, and permission was recommended, subject to 26 no. conditions.

4.2.2. Other Technical Reports

Drainage Division: No objections, subject to conditions.

Roads and Traffic: Further information requested.

4.3. Prescribed Bodies

Iarnrod Eireann – notes proximity to railway and sets out responsibilities for developments in such areas.

Transport Infrastructure Ireland – Notes requirement for a Section 49 contribution.

4.4. Third Party Observations

Four received, two were positive, two set out a range of objections.

5.0 Planning History

ABP-304280-18 (3706-18): This was for a similar scaled development on the site. It was granted permission by the planning authority, this decision was overturned by ABP for three reasons, all related to design (internal and external amenity, and traffic access).

3705/18: Permission granted for the demolition of structures on the site and the erection of a hoarding.

2667/17: Permission refused for 10 apartments on the site, for the reason that it was considered to represent overdevelopment.

3801/05: Permission granted for a 7-unit apartment development on the site. Later amended with an increase in retail floor area (2350/07).

6.0 Policy Context

6.1. Development Plan

The site is zoned Z1 for the protection of residential amenities. It is also considered to be within the 'inner city' as defined in the Dublin City Development Plan 2016-2022. Relevant policies apply.

6.2. Natural Heritage Designations

There are no designated habitats in the vicinity of the appeal site. It is approximately 3km directly west of the closest Natura 2000 site, the South Dublin Bay and River Tolka Estuary SPA, site code 004024. It is within the catchment of the Liffey, which flows to the South Dublin Bay and River Tolka Estuary SPA and SAC, side codes 004024 and 000210.

7.0 The Appeal

7.1. Grounds of Appeal

Saltcross Limited (owners of The Bald Eagle licensed premises)

- It is noted that the application is very similar to that previously refused by the Board and it is submitted that the applicants have not adequately addressed the reason for refusal relating to noise levels.
- It is argued that the acoustic report submitted does not address the key issues, in particular the potential impact in the evenings and during weekend trading in the outdoor seating area to the pub. It is noted that the report submitted as no data on existing noise levels.
- It is submitted that the Acoustic report does not address the predicted levels of noise within the private balcony and outdoor communal spaces.
- It is submitted that the proposed development is substandard with regard to private open spaces and the positioning/number of windows.

- It is argued that the decision has not taken full account of the needs of the two adjoining commercial premises with regard to access and deliveries – with particular regard to the opening of doors onto the laneway.
- It is noted that the parking and bike parking provision is substandard with regard to development plan guidelines.
- It is submitted that the height of the building is out of character with the area and the existing pattern of development.

Cuala Property Management (Dakota Court Management CLG)

- The appellants are the management company for the apartment complex facing the Royal Canal east of the appeal site.
- It is argued that the proposed development is substandard with regard to parking and access and will result in additional traffic and parking problems in the area.
- It is submitted that the bike parking proposed is substandard. It is argued with regard to the NTA Manual (5.5.8) that the use of stacked parking is to be discouraged in most circumstances.
- It is argued that the design does not address the potential for improving the lane/footpath along the Royal Canal at this point, and as such is contrary to stated policy to improve access and amenities along the canal.
- It is argued that the proposed development is significantly out of scale with the area and that the proposal does not take full advantage of the potential amenity benefits of a full café at ground floor level addressing the canal visually.
- It is argued (photos attached in support of the arguments) that the southern and eastern facades do not do justice to the prominence of the site and could be significantly improved.

7.2. Applicant Response

- The applicant provides an overview of the planning context and the design brief, with specific regard to the previous Board decision.

- The planning authority's comments in support of the design changes are highlighted and noted, especially with regard to internal amenity.
- With regard to the issues raised by the adjoining public house, it is argued that the acoustic report, based on a survey carried on between the 6th and 9th March, was accepted by the planning authority and was carried out in accordance with best practice. It is argued that in the context of the inner city, residential units next to a public house is not unusual and that all reasonable design precautions have been taken to minimise potential impacts and that the report submitted is fully adequate.
- It is argued that use of the balconies would be sporadic and seasonal and so would not conflict with the use of the lane to the rear for deliveries of waste collection.
- It is denied that there would be any interference with the narrow lane between the proposed apartments and the pub/snooker hall.
- It is noted that in the Zone 2 area (Map J of the Development Plan) it is considered appropriate for developments to have bicycle parking only. It is noted that the planning authority addressed this in detail.
- With regard to the impact on adjoining amenities, the applicant highlights the overall comments in this regard of the planning authority. It is argued in some detail that the overall building would have a positive impact on the immediate area, and is a logical continuation of the scale of development along the southern side of the canal.
- It is stated that the applicant agrees with the requirement for additional kitchen windows on the eastern elevation. On page 21 of the submission an option is provided to ABP for alterations if it is considered that the condition as set by the planning authority (condition 4) is inappropriate.
- With regard to the appeal by the Cuala Property Management Company, it is argued that the condition set by the planning authority for a mobility manager is appropriate (condition 6) and can address the issues raised regarding parking and access along the road to the side.

- It is argued that zero car parking is appropriate having regard to the nature of the area and the likely tenant mix for the proposed development – it is noted that this is consistent with section 4 of the New Apartments Guidelines for Planning Authorities 2018. It is argued that there is sufficient on-street parking in the area for occasional visitors.
- It is argued that the cycle parking provision is appropriate and was satisfactory following the submission of further information to the planning authority and engineering department. It is argued that the two-tier bike rack is fully workable and is used in many such developments.
- It is argued that Cuala's submission on the adjoining road and footpath do not take account of the financial contribution required as part of the submission. The Boards attention is drawn to Drawing no. PA-001 (site plan) which shows the relationship with the adjoining road and footpath. It is further argued that having regard to the small size of the site it is not feasible to include private open space.
- The applicant addresses in significant detail the submission made regarding design details and the final façade. It is argued that having regard to the particular constraints of the site, and in particular the need to reconcile the site size and context and the internal amenities of the apartment, the overall design addresses fully the concerns raised.
- A number of attachments are submitted, including photographs and correspondence.

7.3. Planning Authority Response

The planning authority did not respond to the grounds of appeal.

8.0 Assessment

Having inspected the site and reviewed the file documents I consider that the appeal can be addressed under the following general headings:

- Principle of development
- Pattern of development

- Adjoining commercial properties
- Amenities (internal and external)
- Parking and access
- Flooding and drainage
- Cultural heritage
- Appropriate Assessment and EIAR
- Other issues

8.1. Principle of development

The appeal site is within a Z1 residentially zoned area (*'to protect, provide and improve residential amenities'*) and is designated as being within the 'Inner City' for the purposes of the Dublin City development Plan 2016-2022. The adjoining pub and residential areas further south are designated Z2, residential conservation area. The Royal Canal and associated structures are designated a conservation area. The adjoining bridge, the Cross Guns Bridge, is on the NIAH and is thought to be a rebuild of the original canal bridge carried out c.1864 as part of the railway works. The National and Regional context is set out in a number of documents, including *Project Ireland 2040; Rebuilding Ireland (2016)*; the *Urban Development and Buildings Heights Guidelines for Planning Authorities (December 2018)*; the *Sustainable Urban Housing Guidelines (2018)* and the *Regional Planning Guidelines for the Greater Dublin Area 2010-2022*, in addition to related guidelines and circulars such as DMURS. These policies consistently set out policy objectives for promoting high quality residential uses within existing urban areas at significantly higher densities than has been the norm in the past.

Although the zoning maps are ambiguous, the City Council consider the site to be within the Inner City, and so policy on tall buildings apply – the planning authority's approach is set out in 4.5.4 of the Development Plan. This section puts a general emphasis on local context, but the planning authority consider the height of the structure to be in accordance with the guidelines.

In Z1 zoned areas the Development Plan, following national guidelines, identifies such infill/redevelopment sites as appropriate for residential development with a

strong policy emphasis on raising density within such areas if they are served by appropriate services including high quality public transport routes. The proposed development, with 9 units on less than 250 square metres, represents a very high density of around 360 per hectare), but there is no maximum density set for such areas in the Development Plan or other Guidelines. I note that the 2018 standards for New Apartments were updated in late 2020, after this appeal was made, but I do not consider that the revised Guidelines are relevant to the issues in this appeal.

The site is well served by several bus services, is within walking distance of much of the city centre, and is within 25 minutes walk of a Luas/railway station, so I would consider it to be very well connected in terms of public transport, notwithstanding the generally very congested nature of the local road network.

In broad policy terms I would consider that a high density residential development with café on ground floor is fully consistent with the zoning and general national, regional and local policies with regard to the provision of residential uses on brownfield sites in such areas. The proposed development is substandard with regard to a number of guidelines (I will discuss this further below), but national and development plan policy permits flexibility with the provision of parking and open space in appropriate circumstances.

ABP previously refused planning permission for a similar scaled development on the site. The three reasons for refusal all related to detailed design and amenity issues, and not to the principle of a building of this scale on the site. While I will address the design and other planning issues relating to the proposed development *de novo*, I will have particular regard to this decision, and so I consider that the key points in this appeal are whether the proposed design fully addresses the previous reasons for refusal.

8.2. Pattern of development

The appeal site is on a very prominent gateway area where the Royal Canal marks the traditional boundary between the inner city and outer suburbs. The junction between the main road and canal was widened in the 1840's by the construction in a cutting of a railway line. Opposite the site on Phibsborough Road is a nondescript office building, across the canal to the north is the attractively renovated former Iona Airways offices, now a craft beer public house (the Bernard Shaw), with a furniture

retail unit opposite. Of these, the public house is the only building with significant aesthetic or historic merit, although its single storey height prevents it being a major visual landmark. The most visually prominent buildings in the vicinity are the former Dublin flour mills buildings to the west along the Royal Canal – these have been converted to apartments. To the east of the site the Dakota Court apartment buildings address the canal in an impressive manner. The northern bank of the canal has been renovated as a walk/cycleway to a high quality and has become an increasingly well used and popular amenity and is likely to continue to grow in use as the Greenway is extended further west along the Royal Canal. The Westmoreland Locks next to the bridge are an impressive feature of late 18th Century engineering, although the original Westmoreland bridge seems to have been removed in the mid-19th Century and replaced with a more functional stone and steel structure. The canal bank on the southern side next to the site is poorly maintained, as is the road surface – the canal bank is separated from the highway by crash barriers. There is no path along the canal at this point. To the south of the site there are attractive and well maintained early 19th Century 2-storey commercial buildings, and the overall area is dominated by fine terraces of late 19th Century homes.

The site was apparently occupied by a number of smaller 19th Century structures, now demolished. But due to its prominent location it is ideal for a visually striking building.

The proposed design is contemporary in appearance with an irregular fenestration pattern with brick external finish and aluminium louvers and rails with balconies on the northwest and north east corner. While the design does not match any adjoining buildings, I consider that in scale and orientation it continues the positive pattern set by the Dakota Apartments to the East and the schemes on each side of the former Dublin Flour Mills to the west. The submission on behalf of the adjoining Public House makes a number of very detailed comments on the overall finish and appearance of the design which I consider to have merit, although they would be difficult to address through condition. It can certainly be argued that a simpler design would be visually more attractive, but this has to be balanced against providing private amenity to the future residents.

I would conclude that in its general design and scale it would provide a positive contribution to this prominent corner, and the proposed café will be a valuable amenity to this end of the main street and will significantly improve the corner. The treatment at ground level on the northern elevation is less satisfactory as it will present something of a blank façade to what is already quite an unsightly stretch of public street along the canal. Ideally, the café frontage would be extended further along Eglington Terrace to provide more informal overlooking of the public area, but given the drop in levels and the need for service access and storage for the building, it is difficult to see how this could be addressed any better without a fundamental redesign.

8.3. Amenities (internal and external)

The previous similar apartment building on the site was refused for three reasons, two of which related to design details relating to internal amenities and the relationship of the proposed apartments with the adjoining public house and snooker hall, in particular the open-air seating element of the public house. The third reason related to carpark access.

The first of the reasons stated that the lack of glazing to bedrooms on the eastern elevation resulted in a substandard level of amenity, the second that the applicant had not fully addressed concerns about the impact on amenities of noise from the adjoining public house.

The site is somewhat constrained by its location, in particular that the main 'open' elevations are to the west (overlooking the main road) and to the north, so maximising light and good aspect to the apartments is inevitably difficult. The presence of a small open air seating facility to the rear of the adjoining public house (south of the site) seriously constrains the design of the apartments due to late evening noise. While having views over the canal would be attractive, this is the northern aspect as so would provide minimal direct sunlight at all times of the year.

Given the limitations created by the orientation and limited size of the site, I would consider that the revised layout of the apartments addresses the issues of 'reason 1' of the previous refusal. All nine of the units have reasonably open aspects, although the absence of any opes to the east, overlooking the snooker hall, is a concern. I would concur with the planning authority that opaque opes for the kitchens on the

eastern elevation would improve internal amenity and would not impact on the amenities of adjoining properties. It is hardly ideal, but this would at least provide some morning sun penetration to the rear of the apartments. If the Board is minded to grant permission I would recommend repeating this condition.

The proposed development is generally substandard with regard to guideline levels of private open space, with just balconies and a small rooftop amenity area. In many areas, I would not consider this acceptable, but the area is generally well supplied with informal amenity space and all the units have balconies, although realistically I don't consider it likely that these will be regularly used due to the northerly aspect and the high degree of road noise. But although the immediate area lacks a large park (apart from the Botanic Gardens), the Royal Canal is a high quality amenity, and there is a linear green space running east of the site to Blessington Basin, on the former branch canal that once ran along the boundary of Mountjoy Prison to Blessington Basin. As such, I consider the design and allocation of private open space to be acceptable.

Reason 2 for the previous refusal related to noise, and the appellant has raised strong concerns about the proximity of apartments to the open air elements of the adjoining pub. Clearly, this is not an ideal juxtaposition, although as the applicant has noted, this is by no means unusual in high density urban areas. I note of course that any future residents will no doubt be well aware that they will be moving to within a few metres of a popular public house.

The applicant submitted an acoustic report, which the appellant has criticised in some detail. While I do have concerns, realistically it is difficult to fully assess the theoretical aspects of pub noise at various times of the evening, and of course the pub owner may in future wish to make changes that could alter existing patterns of use. But realistically, I would consider that the use of acoustically sealed balcony doors and trickle vents as indicated in the report, along with the general orientation of the living spaces, realistically addresses this problem as much as can reasonably be achieved for such a development. I therefore do not recommend a refusal for this reason.

The submission by the Dakota Apartments highlights the very poor standard of road and footpath along the Royal Canal at this point. I concur that there is a significant problem here, not just in terms of amenity, but also the safety of walkers and

cyclists. A new path along the canal would certainly be appropriate. This is, however outside the application area, and the applicant has noted the development contribution towards works, including footpath works, required, so I concur that this is the appropriate way of addressing this issue.

8.4. Parking and access

The site fronts onto the busy Phibsborough Road where there is a bus lane immediately next to it, with the narrow and substandard Eglinton Terrace along the north side, with a narrow private lane at the rear serving the adjoining public house. Eglinton Terrace is narrow with just a residual footpath on one side, and rises steeply in level to the west where it meets the raised embankment for the road bridge. There is minimal street parking in the area, apart from on the residential streets to the south and east.

The proposed development has no carparking provision and a relatively small bike lockup in the half basement, accessed directly onto Eglinton Terrace. It is unclear from the details submitted, but it would seem most likely that deliveries for the café would be via Eglinton Terrace.

The half-basement contains the storage area for the café/retail, a bike store of just over 25 square metres and a bin store. The bike store is accessed via the apartment entrance to the north, while the bin store also has an access to this entrance in addition to the laneway at the back. It is unclear from the information submitted, but it would seem that the applicant has legal authority to access this lane, although one of the appellants has raised concerns about interference with access to the public house. While it is clear there will be some potential interference by the outward opening doors, I consider that access to this lane is preferable than a direct access to the main road for collection purposes.

While even within the inner city some level of curtilage car parking is usually required, the planning authority considered that the small scale of the development and the nature of the site justifies having no on-site parking, nor are there any designated parking spaces around the site. As the area is well served by public transport and is within relatively easy reach by foot or cycle with most of the commercial areas of the city, I consider this reasonable and appropriate.

A number of concerns have been raised about the size of the bike store – it is stated to be sufficient for 30 bikes, although this is only feasible through the use of a

double decker stand. The store is still very limited in size and there is minimal room for manoeuvre – it would certainly be difficult for anyone to store a non-standard type of bike, such as a cargo bike within this area. In reality, I would concur with the comments of the observers that 30 bikes are unlikely to fit. I note that the Development Plan highlights concerns about the visual impact of bikes being stored in apartments (page 328 of the development plan), so safe, secure, and functional bike parking is vital in a development such as this. Section 16.39 and Table 16.2 of the development plan sets out requirements for such facilities. These require just one per unit, although realistically in this type of development I would consider this to be inadequate – two per bedroom would be ideal. While I do have concerns about the small size of the storage unit, I would consider that with well designed double decker racks, a reasonable number of bikes could be stored here safely, so I consider it to be acceptable. It would also be ideal if some on-street bike parking was provided for café customers, but this is not within the powers of the applicant as it would be on the public street.

8.5. Flooding and drainage

There are no records of flooding on the site. A full flood risk assessment was submitted with the application. I note that the Council Drainage Section were satisfied with proposals for drainage and the area is fully served by the public sewer and water supply.

8.6. Cultural heritage

There are no protected structures on or adjacent to the site. The public house to the south is within a Z2 residential conservation area. The site adjoins the Royal Canal with a number of important historical engineering features, including the 18th century Westmoreland Lock nearby, and is within the visual envelope of the former Dublin Flour Mills, an important local landmark. The bridge next to the site appears to be contemporary with the railway, the original canal bridge was probably replaced in the mid-19th Century. The site is not within an archaeological protection zone and any possible remains will likely have been destroyed by its long history of development.

8.7. **Appropriate Assessment and EIAR**

There are no EU designated habitats in the vicinity of the site. It lies approximately 3km west of the closest Natura 2000 site, the South Dublin Bay and River Tolka Estuary SPA, site code 004024. It is within the catchment of the Liffey, which flows to the South Dublin Bay and River Tolka Estuary SPA and SAC, side codes 004024 and 000210. Some waterbirds listed in the conservation objectives may occasionally use the Royal Canal for feeding or roosting, but the site is derelict and regularly disturbed and so would not have any potential link or benefit to those species or related habitats. The site is fully served by the public sewer and water system, and so there are no pathways for pollution or any other possible direct or indirect impact on the conservation interests of those designated sites.

I therefore consider that it is reasonable to conclude that on the basis of the information on the file, which I consider 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 European Site No. 004024 or any other European site, in view of the site's Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

Having regard to the small scale of the proposed development and the absence of any sensitive receptors, the development would not result in a real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded and a screening determination is not required.

8.8. **Other issues**

The applicant has an exemption certificate for Part V. The planning authority set a standard Section 48 Development Contribution (in two conditions, one specifically for public open space in the area) in addition to a supplementary contribution to the Luas Cross City project.

I do not consider that there are any other significant planning issues arising from this appeal.

9.0 Recommendation

I recommend that the Board grant planning permission for the proposed mixed use development for the following reasons and considerations, and subject to the conditions set out in the schedule below.

10.0 Reasons and Considerations

Having regard to the Z1 zoning designation, the location of the proposed development within the Inner City, the nature of the site and the immediate area, it is considered that the proposed development would have an acceptable level of internal amenity to the proposed apartments, would not seriously injure the amenities of adjoining properties, and would otherwise be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

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

Reason: In the interest of clarity

2. The proposed development shall be amended as follows:
 - a) Opaque kitchen windows shall be provided on the eastern elevation to each apartment.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of residential amenity.

3. Prior to the occupation of the apartments, the developer shall submit a written confirmation that all acoustic attenuation features as outlined the Acoustic Assessment Report submitted to the planning authority on the 22nd April 2020 have been implemented and satisfactorily tested.

Reason: In the interest of residential amenity.

4. Details (including samples) of the materials, colours and textures of all the external finishes to the proposed building (including the rooftop amenity space) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Details of all external shopfronts and signage shall be the subject of a separate planning application.

Reason: In the interest of the visual amenities of the area.

5. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags or other projecting elements shall be displayed or erected on the building or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

6. Prior to the occupation of the apartments the developer shall submit full details of the layout of the bike parking store demonstrating that a minimum of 30 useable bike parking spaces has been provided along with appropriate levels of safe access and security.

Reason: In the interest of sustainable transport.

7. The management of the maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development, including the external fabric of the buildings, internal common areas, landscaping, bike parking, lighting, waste

storage facilities and sanitary services shall be submitted to and agreed in writing with the planning authority, before the commercial unit or apartments are made available for occupation.

Reason: To provide for the future maintenance of this private development in the interest of visual amenity.

8. The developer shall control odour emissions from the café premises in accordance with measures (including any extract duct details) which shall be submitted to, and agreed in writing with, the planning authority prior to the unit being made available for occupation.

Reason: In the interest of public health and to protect the amenities of the area.

9. Security roller shutters shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the “open lattice” type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

10. 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 interests of public safety and residential amenity.

11. Proposals for a development name, office/commercial unit identification and a numbering scheme for the apartments shall be submitted to, and agreed in writing, with the planning authority prior to the commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

12. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

13. The developer shall pay of 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 the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation 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 At be applied to the permission.

14. The developer shall pay to the planning authority a financial contribution in respect of the Luas Cross City project 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.

. Philip Davis
Planning Inspector

15th February 2021.