



An
Bord
Pleanála

Inspector's Report ABP-308141-20

| | |
|-------------------------------------|---|
| Development | Demolish storage building and construct five one-bedroom apartments |
| Location | 23/24 Rutland Place North, Dublin 1 |
| Planning Authority | Dublin City Council |
| Planning Authority Reg. Ref. | 4741/19 |
| Applicant(s) | Cuisle Properties Ltd. |
| Type of Application | Permission |
| Planning Authority Decision | Grant |
| Type of Appeal | Third Party |
| Appellant(s) | Richard M. O'Hanrahan |
| Observer(s) | Gary Solan |
| Date of Site Inspection | 21 st December 2020 |
| Inspector | Colm McLoughlin |

Contents

| | |
|---|----|
| 1.0 Site Location and Description..... | 3 |
| 2.0 Proposed Development..... | 3 |
| 3.0 Planning Authority Decision | 4 |
| 4.0 Planning History..... | 5 |
| 5.0 Policy & Context..... | 7 |
| 6.0 The Appeal..... | 8 |
| 7.0 Assessment..... | 13 |
| 7.1. Introduction..... | 13 |
| 7.2. Layout, Scale & Design | 13 |
| 7.3. Residential Development Standards..... | 15 |
| 7.4. Impacts on Residential Amenities | 16 |
| 7.5. Other Matters | 18 |
| 8.0 Appropriate Assessment | 19 |
| 9.0 Recommendation..... | 22 |
| 10.0 Reasons and Considerations | 22 |
| 1.0 Conditions | 23 |

1.0 Site Location and Description

1.1. The appeal site comprises a stated area of 634sq.m and is located on the north side of Dublin city centre, close to the intersection of the North Circular Road with Summerhill Parade and fronting onto Rutland Place North, a narrow street comprising two-storey terraced housing along the southern side facing the rear of housing along Summer Street North. It is currently occupied by a single-storey storage building in the northwest corner, with the bulk of the site vacant. The northern boundary onto Rutland Place North comprises a block wall with security fencing and wire atop this. The remainder of the site boundaries back onto the rear of properties along Thompson's Cottages, the North Circular Road and Summerhill. The surrounding area is primarily characterised by two-storey housing and two to four-storey buildings along Summerhill and the North Circular Road, several of which accommodate ground-floor commercial uses. Ground levels on site are relatively flat, with a steady drop in levels moving southwards in the surrounding area.

2.0 Proposed Development

2.1. The proposed development comprises the following:

- demolition and removal of a single-storey former storage building with a stated gross floor area (GFA) of 30sq.m;
- construction of a two-storey hipped-roof building fronting onto Rutland Place North accommodating a total of five one-bedroom apartments with a stated GFA of 324sq.m, each ranging in size from 47sq.m to 55sq.m, and with a rear single-storey flat-roof element and private amenity spaces;
- gated vehicular and pedestrian access off Rutland Place North to two rear car parking spaces, soft and hard landscaping treatments throughout, including communal garden areas and a single-storey bicycle store on the southern boundary measuring 7.5sq.m;
- surface and storm water attenuation tank and connections to local services.

2.2. Following a request for further information, a Civil Engineering Services Report and a Flood Risk Assessment report were submitted.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to grant permission for the proposed development, subject to 11 conditions of a standard nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the Planning Officer (February 2020) noted the following:

- no concerns are raised with respect to the proposed density, height, massing, layout, materials, residential mix, floor areas and storage areas of the proposed development, as well as the transition in scale with neighbouring buildings;
- the proposed private amenity areas fall short of the minimum standards;
- a financial contribution may be required in lieu of the absence of an area of public open space on site;
- the impact of the proposed building on neighbouring properties via loss of daylight and overshadowing would be in keeping with the surrounding built environment;
- overlooking would not arise;
- further information is required with respect to the details of the redline boundaries, the western building elevation, the existing and proposed boundary treatments, footpath details, emergency vehicle access, the allocation of car parking spaces, manoeuvrability for cars, refuse collection, drainage and flood risk.

The final report of the Planning Officer (August 2020) reflects the decision of the planning authority and notes the following:

- the additional details, as well as the revised proposals providing increased private amenity areas to serve each of the apartments, would be satisfactory in addressing the further information requested;

- blocking of a doorway onto the site from no.22 Rutland Place North would be acceptable given that there is no record of a permission for the extension that this doorway serves having been previously refused retention permission by An Bord Pleanála in 2016 (ABP ref. PL29N.247010).

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) – further information initially requested;
- Transportation Planning Division – further information initially requested.

3.3. Prescribed Bodies

- Irish Rail - no response;
- Irish Water – no response;
- National Transport Authority – no response.
- Transport Infrastructure Ireland – section 49 supplementary development contributions should be requested in the event of a grant of permission.

3.4. Third-Party Observations

- 3.4.1. During consideration of the application by the planning authority, a total of three third-party observations were received, two from adjoining residents and one from a resident of Kilmacud in Dublin. The issues raised in these observations are similar to those raised in the grounds of appeal and are collectively summarised under the heading ‘Grounds of Appeal’ below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. Pre-planning discussions between representatives of the planning authority and the applicant were undertaken in September 2019 under Dublin City Council (DCC) Ref. PAC0386/19, in order to discuss proposals relating to three houses and three

apartments on the site with the key issues arising relating to the provision of appropriate building setbacks and shadow studies.

4.1.2. There is an extensive planning history associated with the appeal site, including a detailed list outlined within the planning authority's report. The following are the most recent applications relating to the appeal site:

- ABP ref. PL29N.244549 (DCC ref. 3855/14) – permission was refused by An Bord Pleanála in June 2015 for the demolition of a shed and the construction of five three-storey townhouses and one two-storey apartment with basement parking, due to the inadequate provision of private amenity space and the inadequate separation distances between the proposed townhouses and the existing housing along Thompson's Cottages and Rutland Place North, which would be affected by overlooking and overbearing impacts;
- DCC ref. 4100/16 – permission was refused by the planning authority in January 2017 for six student accommodation units (36 bed spaces) in a three-storey block, along with caretaker unit, office, laundry facilities, refuse and bicycle storage in a two-storey block, due to the failure to comply with student accommodation standards and the inadequate provision of natural lighting to the accommodation;
- DCC ref. 2478/19 – permission was refused by the planning authority in May 2019 for a student accommodation scheme (32 bed spaces) in a three-storey block to the rear and a two-storey block fronting Rutland Place North with a first-floor roof terrace and a basement, due to the failure to comply with student accommodation standards and the proximity of the building to the rear of houses along Rutland Place North and Thompson's Cottages.

4.2. Surrounding Sites

4.2.1. Reflective of the inner-urban character of the area, there have been a variety of planning applications in the immediate area, the following of which is of relevance to the subject appeal:

- ABP ref. PL29N.247010 (DCC ref. 2328/16) – permission for a first-floor extension and retention of a ground-floor extension to no.22 Rutland Place North was refused by An Bord Pleanála in December 2016 due to the failure to provide any private open space for the house at ground level, and the

failure to ensure that other basic residential amenities such as natural light and ventilation would be available within parts of the development.

5.0 Policy & Context

5.1. Development Plan

- 5.1.1. The appeal site has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022, with a stated objective 'to protect, provide and improve residential amenities'.
- 5.1.2. Relevant planning policies for residential development are set out under Sections 5 (Quality Housing) and 16 (Development Standards) within Volume 1 of the Development Plan. Under Policy QH1 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, a number of which are listed in Section 5.2 below. Policy SC13 of the Plan promotes sustainable densities with due consideration for surrounding residential amenities. Policy QH25 of the Plan encourages the re-introduction of residential uses into the historic areas of the city.

5.2. Planning Guidelines

- 5.2.1. The following planning guidance and strategy documents are relevant:
- National Planning Framework (NPF) – the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040;
 - Urban Development and Building Heights Guidelines for Planning Authorities (2018);
 - Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2018);
 - Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009);
 - The Planning System and Flood Risk Management – Guidelines for Planning Authorities (Office of Public Works, 2009);
 - Greater Dublin Regional Code of Practice for Drainage Works (Version 6.0).

5.3. Natural Heritage Designations

- 5.3.1. The nearest European sites, including Special Areas of Conservation (SAC) and Special Protection Areas (SPA), which could potentially be affected by the proposed development, comprise the following:

Table 2. Natural Heritage Designations

| Site Code | Site Name | Distance | Direction |
|-----------|--|----------|-----------|
| 004024 | South Dublin Bay and River Tolka Estuary SPA | 1.5km | east |
| 000210 | South Dublin Bay SAC | 3.4km | southeast |
| 004006 | North Bull Island SPA | 4.4km | east |
| 000206 | North Dublin Bay SAC | 4.4km | east |
| 000199 | Baldoyle Bay SAC | 9.3km | northeast |
| 004016 | Baldoyle Bay SPA | 9.6km | northeast |
| 000202 | Howth Head SAC | 10.5km | northeast |
| 003000 | Rockabill to Dalkey Islands SAC | 10.7km | east |
| 000205 | Malahide Estuary SAC | 11.9km | northeast |
| 004025 | Malahide Estuary SPA | 11.9km | northeast |

5.4. Environmental Impact Assessment - Preliminary Examination

- 5.4.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. In conjunction with the third-party observations, the grounds of appeal from a third-party with an address at no.8 Thompson's Cottages adjoining the site to the west, which were accompanied by drawings and 3D-rendered images, can be summarised as follows:

Residential Amenity

- there would be a lack of sufficient separation distances between the proposed development and the properties along Thompson's Cottages and the North Circular Road with potential for overlooking from first-floor level into the rear of properties;
- inadequate separation distances were noted as being of concern under ABP ref. PL29N.244549 when previously refusing development on this site;
- the proposed development would restrict the enjoyment of the first-floor terraces along Thompson's Cottages, by reducing views and facilitating a loss of privacy;
- there is a lack of details with respect to the potential to restrict natural light to neighbouring housing and excessively overshadow the amenity areas of these properties;
- proposals fail to comply with various development standards, as well as zoning and housing objectives of the Development Plan, with the development infringing on amenities rather than protecting them;
- mitigation measures to address impacts on neighbouring amenities would not be feasible given the poor overall quality of the scheme;

Design

- building design, rhythm, scale, roof profile, fenestration, building lines and massing would be out of character with the historical housing along Rutland Place North, Thompson's Cottages and the North Circular Road;
- in addressing the potential for overlooking, residents would be faced with views of a blank gable wall from the rear of Rutland Place North and the privacy of future residents of the proposed apartments would be undermined by the new access route;

- proposals with respect to private amenity space, bedroom and living room sizes in apartments 1 and 5, as well as the overall size of apartment 1 would be below the Development Plan minimum standards;
- only one dual aspect apartment would be provided, which would be contrary to Ministerial guidelines;

Access & Services

- addition of a ramped building entrance along Rutland Place North would hinder movement along the public footpath;
- drainage proposal details are lacking in the application, including means of overcoming difficulties in connecting into the existing oversubscribed drainage system;
- housing in the area, including those adjoining the site, are served by piped foul drainage infrastructure traversing the site from Thompson's Cottages. Details of the potential implications of the proposals on these infrastructures has not been provided and condition no.8 of the decision addressing private drains would not address the concerns arising;
- additional fire, flood and security risks would arise;
- there would be reduced access for emergency vehicles and no evidence of capacity to facilitate appropriate fire tender access has been provided;

Boundaries & Property

- concerns are raised regarding the implications for the structural integrity of existing boundary walls with adjoining properties;
- clarity is required regarding the actual site boundaries and it would appear a lost opportunity not to have provided additional landscaping along the boundaries;
- groundworks within the root protection zones of existing mature trees along Thompson's Cottages would not be desirable;

Other Matters

- contiguous elevations and cross-section drawings are required;

- details within the planning application drawings were omitted or were not accurately presented;
- there are discrepancies in the planning authority's assessment;
- the applicant has failed to engage with neighbours despite there being solutions to develop the site;
- proposals would result in a depreciation of property values in the immediate area.

6.2. Observations

6.2.1. In response to the grounds of appeal, one observation accompanied by legal correspondence and a sales brochure relating to the appeal site, was submitted from the stated owner of an adjoining property to the northwest of the site at no.22 Rutland Place North. The observation primarily reaffirms and supports matters raised in the grounds of appeal, as summarised above, while also raising matters that can be summarised as follows:

- proposals would create a downdraft on a chimney adjoining the proposed development;
- a solid wall would be positioned abutting a door providing light to the observer's kitchen and blocking this access onto the site;
- the applicant has not addressed the existence of doors and vents from neighbouring properties opening onto the site;
- proposals fail to overcome previous reasons for refusal of permission on the site and would raise the water table;
- the development description did not adequately describe the proposed development;
- proposals would inhibit the property rights of the observer, including historical rights of way, access, drainage and light, which they intend to continue to observe;
- the site has previously been vacant and unkempt by the applicant having been subject to anti-social behaviour, dumping, vermin and squatting.

6.3. Applicant's Responses

6.3.1. The applicant's responses both to the grounds of appeal and the observation can be summarised as follows:

- the site has been a brownfield site following the North Strand bombing by the German air force in 1941 and the applicant acquired the site in the 2000s. It is accepted that the initial refused planning applications were fairly ambitious and recent proposals have actively sought to address this through engagement with the planning authority;
- the applicant installed a new dual drainage system through the site at their own expense to rectify the drainage problems in the area;
- the roof profile and scale has been designed cognisant of the surrounding properties;
- the Development Plan allows for a relaxation in development standards in circumstances such as this;
- many of the third-party statements are misleading;
- overlooking would not arise due to the orientation of the existing and proposed buildings;
- fire tender access has been provided for;
- the observer has claimed various rights to their property and reference is drawn to conclusions within ABP ref. PL29N.247010 and appended advice from a legal representative of the applicant;
- it is recognised that legal matters are not within the remit of the Board.

6.4. Planning Authority Response

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

7.0 Assessment

7.1. Introduction

- 7.1.1. Based on the provisions of the Dublin City Development Plan 2016-2022, I am satisfied that the redevelopment of the appeal site for residential purposes would comply, in principle, with the zoning objectives for this site and would promote the regeneration of this inner-urban infill brownfield site. The subject proposals would also support policy QH25 of the Development Plan by reintroducing residential uses into an historic area of the city. As per the Guidelines for Sustainable Residential Development and policies QH7, QH8 and SC13 of the Development Plan, the acceptability or otherwise of the proposed development requires the proposals to respect and integrate with the surrounding character and to have due consideration for the protection of surrounding residents, households and communities. Revised drawings were submitted with the planning application, primarily addressing private amenity space requirements and providing a bin store on site, and it is these revised proposals that I consider in my assessments below.
- 7.1.2. I consider the substantive planning issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:
- Layout, Scale & Design;
 - Residential Development Standards;
 - Impacts on Residential Amenities;
 - Other Matters.

7.2. Layout, Scale & Design

- 7.2.1. The layout proposed would appear to be largely formed as a response to previous reasons for refusal of development on site, the need to protect neighbouring residential amenities and the opportunity to recreate a defined urban edge along Rutland Place North, albeit with constrained building heights given the proximity of this edge to houses backing onto Rutland Place North from Summer Street North.
- 7.2.2. The proposals provide for self-contained residential units in a multi-unit building comprising two main elements, including a two-storey element along Rutland Place

North, which steps back into the site alongside a common entrance before dropping to single storey on the northwest corner proximate to the rear of neighbouring houses. Communal open space would be positioned to the rear of the apartment building and this rear area would also accommodate a cycle store and a bin store. Shared surface-level gated pedestrian access to four of the apartments would be provided, as well as a gated vehicular access off Rutland Place North. Apartment 1 would have own-door access directly onto Rutland Place North, which would require a slight ramp along the footpath and would not hinder movement along the street. A landscape scheme has been provided as part of the application details (see drawing no.P09), which proposes tree and shrub planting to the rear and side of the main building.

- 7.2.3. Section 16.2.1 of the Development Plan relating to 'Design Principles', seeks to ensure that development responds to the established character of an area, including building lines. The surrounding area is largely dominated by two-storey terraced buildings. The building footprint continues the building line along the immediate stretch of Rutland Place North and extends the line of two-storey structures. A contiguous elevation drawing (no.P08 Revision A) and a section drawing (see section c-c of drawing no.P06 Revision A) illustrate the variations in proposed and existing buildings along Rutland Place North. I recognise the differing roof profiles and the slightly higher roof ridge height (0.75m) when compared with the immediately adjoining terrace, however, I also recognise that the subject area does not have conservation status, the site is not highly visible from the public realm, given the narrow street frontage and the screening provided by buildings along the North Circular Road, and the extensive variations in roof styles, profiles and heights throughout the immediate area. External finishes to the elevations of the proposed building would primarily comprise brick, aluclad windows and glazed screens to the balconies and terraces, all under a slate roof. Building proportions would generally follow those on the adjoining terrace of buildings. In conclusion, I am satisfied that the design and scale of the development would be in keeping with development in the neighbouring area and the proposed layout responds appropriately to the site context.

7.3. Residential Development Standards

- 7.3.1. Four of the five proposed apartments (80%) would have dual aspect and the only single aspect unit would be a one-bedroom unit facing southeast, in compliance with the New Apartment Guidelines. Given the orientation of the building, the extent of aspect available for the apartments, the inner-urban site location, separation distances to neighbouring buildings and the elevation treatments, I am satisfied that the proposed apartments would be served by an appropriate and reasonable level of natural lighting.
- 7.3.2. While the proposals would only provide for one-bedroom apartments, this would be acceptable given the provisions set out in the New Apartment Guidelines, which provide scope for reduced development standards, including those referenced below, on urban infill sites of up to 0.25ha. I am satisfied that the development would enable an improved mix of housing typologies in the area, relative to existing established housing and reflective of contemporary household formation.
- 7.3.3. The apartments measure between 47.5sq.m and 55sq.m, exceeding the minimum space requirements (45sq.m) of both the New Apartment Guidelines and the Development Plan (Section 16.10.1). The internal design, layout, configuration and room sizes for each of the apartments, including storage requirements, would accord with or exceed the relevant standards. Following a response to a further information request from the planning authority, private amenity space for each of the apartments, including balcony sizes, would exceed the minimum New Apartment Guidelines and Development Plan requirements (5sq.m). Floor to ceiling heights of 2.5m would be provided throughout and while the Guidelines require a minimum 2.7m floor to ceiling heights for ground-floor apartments, some discretion is possible and I consider it would be suitable in this urban infill context, particularly considering the established surrounding building heights.
- 7.3.4. Consequent to the site constraints and the scale of the development, scope for providing extensive public open space on site is limited. Standards contained in the New Apartment Guidelines and the Development Plan would require the provision of 25sq.m of communal open space to serve the development, while over 130sq.m of communal open space would be provided. Communal waste facilities for future occupants of the development are also proposed to the rear of the site and further details can be requested as a condition in the event of a grant of permission. Two

car parking spaces would be provided and the applicant outlined within their further information response that these spaces would be used temporarily by those servicing and maintaining the apartments. Considering the city centre context, including access to public transport and the provision of an on-site covered cycle shelter with space for approximately 15 bikes, the absence of permanent on-site car parking specifically assigned to the apartments would be acceptable. Swept path analysis drawings (nos.2120-203 and 2120-204) illustrate that cars and an emergency vehicle would be able to access and egress the site from the proposed entrance off Rutland Place North.

- 7.3.5. In conclusion, I am satisfied that the proposed development has the potential to provide a suitable mix of housing into this area and would provide an appropriate level of amenity for future occupants of the residential units, in line with the provisions outlined in the Development Plan and the New Apartments Guidelines.

7.4. Impacts on Residential Amenities

- 7.4.1. Policy SC13 of the Development Plan promotes sustainable densities within developments with due consideration for surrounding residential amenities. The grounds of appeal primarily raise concerns with respect to the potential impact of the development on the residential amenity of adjacent and adjoining properties, generally as a result of the proximity of the proposed building to housing along nos.6 to 11 Thompson's Cottages and nos.20a, 21 and 22 Rutland Place North. In response the applicant asserts that undue impacts, such as those potentially arising from excessive overlooking, would not arise due to the design and orientation of the existing and proposed buildings.
- 7.4.2. Separation distances between the rear southeast elevation of the proposed building and the two to four-storey properties along Summerhill to the southeast would be substantial at over 20m and would avoid undue impacts on these properties. No windows are proposed in the southwest elevations of the building facing towards Thompson's Cottages and Rutland Place North. Northeast facing windows at ground-floor level would face onto the 3.5m-wide shared access, while the only two first-floor windows serving apartment 4 in northeast elevation would be positioned over 13m from the rear of buildings (nos.584 & 586) along the North Circular Road, which feature mature trees along their rear boundaries with the appeal site, as well

as additional trees being proposed along this boundary. Considering this context, as well as the proposed building design and site layout, excessive direct overlooking would not arise from the proposed development for neighbouring residents or for future residents of the proposed apartments. Potential views from the proposed building towards properties along Summer Street North (nos. 20 and 21) would be similar to those available from the adjoining terrace along Rutland Place North and as such would be typical for this area.

- 7.4.3. Given the orientation and positioning of the proposed part-single and two-storey building primarily to the northeast of Rutland Place North and Thompson's Cottages, I am satisfied that the proposed development would not result in excessive overshadowing or loss of sunlight to the adjoining residences to the southwest, including their associated private amenity areas. Furthermore, the massing of the building with pitched two-storey element to the south of housing along Summer Street North would avoid excessive overshadowing or loss of sunlight to these properties, many of which have been substantially extended to the rear onto the boundary with Rutland Place North.
- 7.4.4. Properties with the greatest potential to be effected as a result of overbearing impacts, would include the houses within Rutland Place North and Thompson's Cottages. It is proposed to construct a two-storey element directly onto the boundary with no.22 Rutland Place North, extending to rear of the first-floor to this house by over 9m. The house at no.22 is not served by rear-facing ground-floor windows and the only rear first-floor window serves a landing area and bedroom that is also served by a window to the front. I address the issue with respect to a side door serving this property onto the appeal site further below. Section C-C of drawing no.P06 Revision A illustrates the relationship of no.22 to the proposed building and the neighbouring terraces, which would not be uncommon in an inner-urban context such as this. Given the restricted height of the proposed building, the pitched roof design, the existing provision of windows to no.22 and the separation distances from the rear elevation of other residences, I am satisfied that sufficient care has been taken to ensure that the proposed building would not be excessively overbearing where visible from no.22 and also from the neighbouring properties.
- 7.4.5. In conclusion, the proposed development would not result in excessive overshadowing or overlooking of neighbouring properties and would have not have an excessively overbearing impact when viewed from neighbouring properties.

Accordingly, the proposed development would comply with Policy SC13 of the Development Plan and the proposed development should not be refused for reasons relating to impacts on neighbouring residential amenities.

7.5. Other Matters

Site Services

- 7.5.1. The appellant refers to the existing drainage infrastructure traversing the site, which is understood to serve properties in the immediate area. Drawing no.2120-200 identifies the services traversing the site along the rear of Thompson's Cottages before being directed north towards a 300mm clay combined sewer on Rutland Place North. Based on the details contained within drawing no.2120-201 these services would continue to be facilitated on the site following the proposed development, albeit with a section of the existing drainage services redirected to facilitate the footprint of the new building. The application was accompanied at further information stage by a Civil Engineering Services Report that addresses site services, including surface water drainage, foul drainage and water supply. An attenuation tank with a capacity of 8m³ is also proposed within the site and it is stated that the drainage services would limit outflow from the site to 0.8 l/s. With regard to foul drainage, a 160mm diameter piped gravity system is proposed to connect with the combined sewer running along Rutland Place North. It is proposed to connect a 63mm-diameter watermain to the existing water supply main located on Rutland Place North. The applicant states that the services would be as per the requirements of Irish Water.
- 7.5.2. Objections to drainage and water supply proposals have not been raised by the planning authority or Irish Water. The planning authority stated that the Engineering Department have not objected to the proposals and specific conditions regarding clarifications and agreements on matters of surface water management were attached to the planning authority decision. Standard connection agreements with Irish Water would be required prior to the commencement of the development. In conclusion, I consider the proposed site services, including surface water proposals and continued facilitation of services traversing the site to be satisfactory, subject to appropriate conditions.

Flood Risk

- 7.5.3. As part of the Civil Engineering Services Report the applicant addressed the potential flood risk associated with the proposed development, which concluded that the site was not at risk of coastal or fluvial flooding and that the proposed surface water drainage measures, the site context and with the vast bulk of the development to be undertaken above ground, would ensure that the site would not be at substantial risk of pluvial flooding. Based on the information provided and available the conclusions of the assessment would appear reasonable.

Boundaries and Regulatory Compliance

- 7.5.4. According to the details submitted, the proposed development would be wholly within the site boundaries and while I recognise that a doorway exists directly from no.22 into the site, there is no record of planning permission for this doorway. The primary access serving no.22 is off Rutland Place North and the previous decision of the Board (ABP ref. PL29N.247010) did not provide permission for retaining the extension that this doorway serves. The implications of developing on the shared boundary with this property, or any other properties, including those with vents and other services onto the appeal site, is a civil matter to be resolved between the parties, having regard to the provisions of section 34(13) of the Planning and Development Act 2000, as amended. Any issue of compliance with Building or Fire Safety Regulations will be evaluated under a separate legal code and thus need not concern the Board for the purposes of this planning appeal.

Property Devaluation

- 7.5.5. The grounds of appeal assert that the proposed development would lead to depreciation in the value of property in the vicinity. Arising from the assessment above, in particular with regard to the impact of the proposed development on neighbouring residential amenities, and cognisant of the current condition of these urban infill lands, substantive evidence has not been provided to support claims that the proposed development would be likely to result in the depreciation of property values in the vicinity.

8.0 Appropriate Assessment

8.1 Stage 1 – Screening

8.1.1. A report screening for Appropriate Assessment was not submitted with the planning application.

8.2. Relevant European Sites

8.2.1. The nearest European sites are listed in section 5.3 of this report. Qualifying interests and conservation objectives for each of the sites are listed on the National Parks and Wildlife Services (NPWS) website (www.npws.ie).

8.3. Is the Project necessary to the Management of European sites?

8.3.1. The project is not necessary to the management of a European site.

8.4. Direct, Indirect or Secondary Impacts

8.4.1. The potential direct, indirect and secondary impacts that could arise as a result of the proposed works and which could have a negative effect on the qualifying interests of European sites, include the following:

- impacts on water quality, for example via release of suspended solids, accidental spills or the release of contaminants from made ground during construction;
- loss or disturbance of habitat/species, for example, use of the appeal site by qualifying species.

8.5. Potential Effects

8.5.1. Based on the source-pathway-receptor model, the nearest pathways to the nearest designated sites from the appeal site are the Royal Canal, which is 200m to the northeast of the appeal site, flowing in a south-easterly direction into the River Liffey, which is 1km to the south of the appeal site, flowing in an easterly direction into Dublin Bay. The site is currently occupied by a vacant storage building and contains no substantive features of ecological significance, with very limited vegetation existing on the site.

8.5.2. Surface water from the site would be discharged at rates compliant with the Greater Dublin Regional Code of Practice for Drainage Works to the public surface water drainage system after passing through an attenuation tank and a flow-control

hydrobrake. All foul water from the proposed development would be discharged via the public system to the Ringsend Waste Water Treatment Plant (WWTP).

Permission has recently been granted (ABP-301798-18) for works that would increase the capacity of the plant from a population equivalent of 1.9 million to 2.4 million.

8.5.3. Having regard to the above, the urban context and the residential nature of the proposed development, I consider that the only potential pathways between the appeal site (source) and the European sites (receptors) would relate to drainage during construction and operation. Due to the nature of the application site and the proposed development there is no direct pathway to a European site, however there is a potential indirect pathway to coastal SACs and SPAs via surface and foul drainage networks and Ringsend WWTP.

8.5.4. Accordingly, with the exception of the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), the South Dublin Bay SAC (Site Code: 000210), the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206), I am satisfied that the other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on these European sites could be ruled out, either as a result of the separation distance from the appeal site, the extent of marine waters or given the absence of any direct hydrological or other pathway to the appeal site. The conservation objectives for the four above named coastal sites are appended to this report. The conservation objectives largely relate to water-dependent habitats and species, including coastal and inter-tidal habitats and migratory wintering birds.

8.5.5. There is theoretically an indirect hydrological pathway between the application site and the four named coastal sites via the public drainage system and the Ringsend WWTP, where wastewater from the proposed development would be treated. However, I am satisfied that the distances are such that any pollutants post treatment from the Ringsend WWTP would be minimal and would be diluted and dispersed and, therefore, there is no likelihood that pollutants arising from the proposed development either during construction or operation could reach the designated sites in sufficient concentrations to have any likely significant effects on the designated sites in view of their qualifying interests and conservation objectives.

8.6. In-combination Impacts

8.6.1. I am satisfied that likely significant in-combination impacts would not arise.

8.7. Stage 1 – Screening Conclusion

- 8.7.1. 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, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024), the South Dublin Bay SAC (Site Code: 000210), the North Bull Island SPA (Site Code: 004006) and the North Dublin Bay SAC (Site Code: 000206), or any other European sites, in light of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not therefore required.
- 8.7.2. In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

9.0 Recommendation

- 9.1. Following the assessments above, I am satisfied that there is sufficient information on the file to allow me to make a recommendation to the Board. I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the land-use zoning objectives for the site, as set out in the Dublin City Development Plan 2016-2022, to the nature, scale and design of the proposed development and the existing pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would appropriately reintroduce residential uses onto this inner-city site, would be acceptable in terms of design, height and scale of development, would provide a suitable level of amenity for future occupants, would not seriously injure the amenities of the area or of property in the vicinity, would be suitably served in terms of access and environmental connections and

without excessive hindrance to neighbouring properties and would comply with the provisions of the Dublin City Development Plan 2016-2022 and the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities first issued by the Department of Housing, Planning and Local Government in March 2018 and subsequent revisions. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

1.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 17th day of July 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. Each apartment shall be used as a single dwelling unit only and shall not be sub-divided in any manner or used as two or more separate habitable units.

Reason: In the interests of sustainable development and proper planning.

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

Reason: In the interest of visual amenity.

4. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements. In particular:
 - (a) gates shall be inward opening and shall not open onto the public footpath;
 - (b) the roads and traffic arrangements serving the site (including footpath connections and signage) shall be in accordance with the detailed

requirements of the planning authority for such works and shall be carried out at the developer's expense;

(c) the roads layout at the vehicular entrance, parking areas, footpaths, kerbs, car parking bay sizes and road access to the development shall comply with the requirements of the Design Manual for Urban Roads and Streets and with any requirements of the planning authority for such road works;

(d) the materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works;

(e) cycle parking shall be in situ prior to the occupation of the development.

Reason: In the interests of traffic safety and in the interest of sustainable transportation.

5. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

(a) details of all proposed hard surface finishes to support the principle of Sustainable Urban Drainage Systems (SUDS), including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;

(b) details of tree protection measures, proposed locations of trees and other landscape planting in the development, including species and settings;

(c) details of proposed boundary treatments within the site and at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity and sustainable drainage.

6. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.

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

Reason: In the interest of public health.

8. Water supply and drainage arrangements, including the attenuation and 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 and to ensure a satisfactory standard of development.

9. Proposals for a naming and 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 apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

10. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally-constituted management company. A management scheme providing adequate measures for the future maintenance of 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.

11. 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, which shall be carried out in full, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of the environment and sustainable waste management.

12. The construction of the development shall be managed in accordance with a Construction & Environmental Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide, inter alia, details and location of the proposed construction compound(s), details of intended construction practice for the development, including hours of working, noise and dust management measures, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste.

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

13. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

14. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities

shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

- 15.** 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.

- 16.** 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.

17. The developer shall pay to the planning authority a financial contribution in respect of Luas Cross City project (St. Stephen's Green to Broombridge Line), 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.

Colm McLoughlin
Planning Inspector

2nd February 2021