



An  
Bord  
Pleanála

## Inspector's Report ABP308187-20

### Development

Demolition of Derelict two-storey house at No. 198 Clonliffe Road; and construction of a part three-storey and part four-storey apartment block containing 36 apartments.

### Location

194, 196, 198 Clonliffe Road,  
Drumcondra, Dublin 3.

### Planning Authority

Dublin City Council.

### Planning Authority Reg. Ref.

2930/20.

### Applicant

Bartra Property Limited.

### Type of Application

Permission.

### Planning Authority Decision

Refuse.

### Type of Appeal

First Party.

### Appellant

Bartra Property Limited.

### Observers

- (i) Diarmuid Hanifin,
- (ii) Peter Branagan and Others.

### Date of Site Inspection

10<sup>th</sup> December, 2020.

### Inspector

Paul Caprani.

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## **1.0 Introduction**

ABP308187-20 relates to a first party appeal against the decision of Dublin City Council to refuse planning permission for the demolition of an existing derelict two-storey house and the construction of a part three-storey and part four-storey apartment block containing 36 apartments at No. 194 to 198 Clonliffe Road, Drumcondra, Dublin 3. Dublin City Council in its single reason for refusal stated that the proposal was out of character and unduly obtrusive and would seriously impact on the residential amenities of the area through impact on privacy as a result of overlooking. Two observations were also submitted supporting the decision of the Planning Authority.

## **2.0 Site Location and Description**

- 2.1. The subject site is rectangular in shape and covers an area of 0.8 hectares on the northern side of Clonliffe Road approximately 2 kilometres north of Dublin City Centre.
- 2.2. Lands to the immediate rear (north of the site) are the former grounds of the Holy Cross College which are now currently the subject of a major residential redevelopment. The site has a depth of approximately 85 metres and a width of c.22 metres. Holy Cross Avenue a tree lined thoroughfare which provides access to the Holy Cross College runs along the eastern boundary of the site. Two derelict two-storey over basement red bricked dwellings which are set back from the public road (Nos. 200 and 202 Clonliffe Road) are located on lands to the immediate west of the subject site. A surface car park associated with the Mater Day Institute is located further west. The site itself is vacant with the exception of a two-storey derelict structure which is contiguous to the two adjoining structures to the west. Previous buildings located on the site have been demolished. Opposite the site on the southern side of the Clonliffe Road Edwardian style red bricked dwellings dating from the late Victorian/early Edwardian period. No. 202 Clonliffe Road to the west of the subject site despite its poor condition which include external steel braces to provide structural support for the building is a protected structure. According to the

information contained on file Nos. 194 and 196 Clonliffe Road which previously existed on the site were demolished some years ago.

### **3.0 Proposed Development**

3.1. Planning permission is sought for the following:

- The demolition of the existing derelict two-storey dwellinghouse at No. 198 Clonliffe Road.
- The construction of a part three-storey and part four-storey apartment block containing 36 apartments (22 one-bedroomed apartments and 14 two-bedroomed apartments including two duplex type apartments). The units are to be accommodated in a single apartment block which runs almost the entire length of the site. The four-storey element of the building is restricted to the rear and to the front portion of the building facing directly onto the Clonliffe Road. The one-bedroomed units range in size from 46 to 53 square metres. The two-bedroomed units range from 74 to 78 square metres. With the exception of one apartment (Apartment No. 8) at ground floor level all apartments are dual aspect.
- The proposed building is to incorporate an extensive brick form finish on the external elevation interspersed with recessed balconies and extensive glazing particularly on the eastern elevation. The building ranges in height from 11 to 14 metres above ground level.
- New boundary entrances are also proposed with a vehicular access onto Clonliffe Road. Incidental areas of landscape open space are also located around the boundary of the site. 68 cycle parking spaces are also provided.

### **4.0 Planning Authority's Decision**

Dublin City Council issued notification to refuse planning permission on 19<sup>th</sup> August, 2020 for a single reason which is set out in detail below.

Having regard to the requirements of the Dublin City Development Plan 2016 – 2022 it is considered that the proposed development, by reason of the overall layout and significant breach of the established and coherent building line along this section of

Clonliffe Road would be unduly obtrusive and out of character at this location. Furthermore, it is considered that the development would result in a significant and unacceptable level of impact on the privacy of neighbouring properties, through the provision of habitable windows and areas of private open space that directly overlook the neighbouring residential properties and therefore, seriously injure the amenities of the area and the residential amenity of adjoining property. The proposed development would, therefore, be contrary to Section 16.2.2.2 and Section 16.10.10 of the Dublin City Development Plan 2016 – 2022 and if permitted would set an undesirable precedent and be contrary to the proper planning and sustainable development at this location.

#### **4.1. Documentation Submitted with Planning Application**

- 4.1.1. The application was lodged on 26<sup>th</sup> June, 2020 and it was accompanied by the following documentation.

A planning report by DK Planning and Architecture. It provides details of the site and the surrounding area and the recent planning history relating to the site. Details of planning policy as it relates to the site are also set out as are details of the urban design statement. This statement sets out details as to how the proposed development is compatible with the area and positively responds to its surroundings. Reference is also made to various government guidelines in relation to residential development in urban areas and design standards for new apartments. The historic development of the area as well as the architectural heritage impact is also set out. Finally, the report details with the social and affordable housing element and it is noted that discussions have been held with Dublin City Council in this regard and also deals with the natural heritage impact. An environmental impact assessment screening is also included in the planning report. It concludes that the proposed development is not likely to have significant effects on the environment. Overall, it is stated that the site carries no particular conservation designations and is zoned for development and is suitable for higher density development. However, adherence to the existing pattern of development will greatly constrain the density of any new development on site. It is also stated that the proposed development will be compatible with new housing on the grounds of Holy Cross Avenue.

An arboricultural report. It notes that the site is devoid of any material arboricultural interest. However, it directly adjoins significant groups of trees on Holy Cross Avenue. Investigations have indicated that the roots of these trees have not extended into the site. Therefore, it is unlikely that any construction activity will have any major effect on the trees adjacent.

Also submitted is an appropriate assessment screening report. It concludes in applying the precautionary principle that there is a possibility for likely effects on European sites in the vicinity namely the South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka SPA and the North Bull Island SPA. On this basis it is recommended that a Natura Impact Statement be submitted.

A Natura Impact Statement was prepared and submitted on behalf of the applicant by Scott Cawley. It recommends a series of mitigation measures to be implemented during the construction and operational phase to avoid and reduce the potential impacts of the proposed development on the Natura 2000 sites referred to above. These include a site specific outline construction management plan submitted with the application and a number of specific measures to protect surface waters and surface water run-off arising from the construction phase. A number of biosecurity measures and measures to prevent the spread of Japanese Knotweed are also set out. On the basis of the implementation of these mitigation measures it is concluded that the proposed development does not pose a risk of adversely affecting either directly or indirectly the integrity of European sites.

4.1.2. A series of reports were prepared by O'Connor Sutton and Cronin Engineers and these include:

- An engineering services report which provides details of the proposed surface water design strategy and the specific SuDS measures proposed as well as a flood risk assessment which concludes that there is no significant risk of flooding within the proposed site.
- The report also sets out details of the wastewater drainage strategy and the potable water supply. Lastly, the report provides a structural assessment in relation to the existing structures and proposed demolition on site as well as details of the ground conditions and the foundations proposed for the apartment block.

- A traffic and transportation report sets out the characteristics of the proposed development and the car parking strategy for the site. An assessment of car ownership in the area reveals that for newer type apartment developments in the area car ownership is generally low. The report sets out details of a mobility management plan including parking management and a car club etc. and based on all the above factors pertaining to the site it is considered that the provision of three car parking spaces at the proposed development is acceptable. Details of cycle parking provision are also provided. The report goes on to assess the potential impact arising from construction traffic. It is further considered that the modest number of car parking spaces provided will not give rise to any impacts during the operational phase.
- A separate report sets out details of a mobility management plan. It sets out specific measures to be adopted to ensure a modal split which favours more sustainable modes of transport.
- Also submitted is a construction and demolition waste management plan which sets out details of national and legislative requirements, details of the estimated demolition waste to be generated and waste associated with the construction phase. The proposed waste management plan for various types of waste including hazardous material is set out as well as details to be employed to ensure the most sustainable waste operations take place on site. This includes the appointment of a waste manager record keeping and waste audit procedure etc. Assuming that all proposed mitigation measures are implemented the impacts are deemed to be acceptable. Mitigation measures include the careful management of waste from the demolition including segregation at source to ensure maximum recycling, reuse and recovery is achieved.
- An outline construction waste management plan was also submitted. It sets out details of the indicative site set-up, site monitoring, security and management, environmental management, health and safety management and the methodology for the demolition of structures. Details of the construction methodology and the proposed construction haul routes are also set out. It is also proposed to appoint a community liaison officer with respect of liaising with the local community.

- An architectural design statement prepared by Sean Harrington Architects was also submitted. It sets out details of the site context and the rationale behind the site layout and design making reference to efficiency, distinctiveness, the public realm, scale and massing and building layout and planning. Details of the proposed elevational treatment and materials are also set out and an assessment of landscaping and biodiversity strategy is also included in this statement. Finally, the architectural design statement also deals with the issue of energy efficiency. A separate landscaping strategy is also set out providing details of the landscape proposals in terms of hard landscape for material and furniture, soft landscape, the proposed planting schedule and boundary treatments.
- A set of architectural visualisations were also submitted prepared by Sean Harrington Architects.
- A bat survey was also submitted. It concludes that there is no evidence of bats to be found on site. A survey was carried out on 21<sup>st</sup> May, 2020. This survey did not reveal any evidence of bats. The level of light pollution in the area would reduce the potential for bat activity. On this basis it is concluded that the development of the site would have no effects on the local bat population.
- A report was also submitted in respect of Japanese Knotweed which was confirmed on the site. It sets out four options of which the dig and dump method was considered to be the most robust and practical eradication option for the site.
- A daylight and sunlight report was also submitted. It concludes that the analysis undertaken indicates that the proposed development will not have a significant effect on the testing parameters set out in the report taking account of the inner city location and the pattern of adjacent development.
- Lastly, the application was accompanied by an Energy Strategy BER report which details how the proposed development will adopt the most sustainable energy strategy approach.



## **4.2. Planning Authority's Assessment**

- 4.2.1. A number of letters of objection were submitted some of which were signed by numerous residents residing in and around Clonliffe Road.

## **4.3. Internal Reports**

- 4.3.1. A report from the Drainage Division stated that there is no objection to the proposed development subject to a number of conditions.
- 4.3.2. A report from the Transportation Planning Division recommends further information on the basis that there are serious concerns with regard to the lack of car parking for the proposal and the potential to create overspill and exacerbate existing street car parking pressures in the vicinity of the site.
- 4.3.3. It is stated that while a reduced quantum of car parking for the development may be considered acceptable, the applicant is requested to review the car parking provision proposed and consider providing additional in curtilage car parking spaces to serve the development. This may necessitate the reduction of residential units.
- 4.3.4. Alternatively, the applicant should consider changing the proposed car parking spaces to car share only. This should be explored with a car club provider and the relevant documentation submitted from the said provider confirming their agreement to provide vehicles to serve the development.
- 4.3.5. It is also stated that there is a discrepancy in the boundary details submitted regarding the eastern boundary along Holy Cross Avenue. The applicant is requested to clarify the nature and extent of the boundary treatment and to confirm that there is adequate provision by virtue of a ramp/footpath level to the refuse to be collected at this location.
- 4.3.6. The planner's report notes that the proposal complies with the zoning objective and therefore is acceptable in principle. The demolition of No. 198 Clonliffe Road is also acceptable in principle. The proposed development is also considered to comply with the requirements of the development plan in terms of development density.
- 4.3.7. In terms of building height and massing the Planning Authority notes that Clonliffe Road has a distinctive character and is composed largely of period residential buildings of near uniform heights primarily two and three-storey structures. It is noted

that there are a number of \_\_\_\_\_ buildings associated with the Mater Day Institute of Education and the Holy Cross College. It is considered important that the setting and visibility of these buildings is desirable. Reference is made to Section 16.10.10 of the Dublin City Development Plan which notes that infill development should have regard to the existing character of the street including the established building lines. The proposed infill development would introduce an incongruous element within the established residential terrace. The proposal would introduce a built element and is taller than the surrounding buildings and positioned significantly forward of the established building line.

- 4.3.8. With regard to department design and layout it is stated that the mix would meet the requirements of SPPR1 and SPPR2 in relation to housing mix. However, it is considered that the provision of 22 one-bedroom units along with 2 two-bedroomed and three-bedroomed units is excessive particularly considering the existing residential context. It is acknowledged that the apartments do meet minimum floor requirements. The open space and boundary treatment proposals are on the whole deemed to be acceptable.
- 4.3.9. Concerns are expressed that the proposal will give rise to excessive levels of overlooking and neighbouring properties to the west. In conclusion, it is stated while the principle of providing residential units on the subject site is acceptable the current proposal by virtue of its design would represent an incongruous and unacceptable building element on the streetscape of Clonliffe Road by reason of significantly breaking the established building line as well as having a detrimental impact on privacy of neighbouring residential properties. For this reason it is recommended that planning permission be refused.

## **5.0 Planning History**

- 5.1. Partial details of history files pertaining to the site are contained in the box accompanying the application and these are summarised below.
- 5.1.1. Under Reg. Ref. 3671/15 planning permission was granted for the demolition of two fire damaged and derelict semi-detached dwellings and the construction of two semi-detached two-storey replacement dwellings as well as all service connections and associated groundworks. This decision was dated 15<sup>th</sup> January, 2016.

- 5.1.2. Under Reg. Ref. 2049/17 planning permission was sought for the demolition of five existing houses and ancillary buildings to the rear of the site at 194, 196, 198, 200 and 202 Clonliffe Road. It was proposed to construct a four-storey apartment development with 146 rooms for student accommodation. The proposal was to accommodate off-street car parking for 9 parking spaces along with bicycle parking. Planning permission was refused by Dublin City Council on 9<sup>th</sup> March, 2017 on the basis that the proposal involves the demolition of a protected structure which has not been adequately justified in conservation terms and the second reason expressed concerns with regard to the overall bulk, height and design of the proposed development in the context of nearby residential properties which would seriously injure the residential amenities of adjoining property.
- 5.1.3. An application under Reg. Ref. 2634/18 sought planning permission for a development on the larger site of 194, 196, 198, 200 and 202 Clonliffe Road for the demolition of existing fire damaged/derelict properties together with the repair, reconstruction and alteration of No. 202 Clonliffe Road to provide 1 ground floor garden apartment, 1 two-storey duplex apartment and 11 three-storey terraced dwellings and 4 three-storey mews dwellings together with the construction of an internal access road and ancillary works. In total 17 family dwellings will be provided.
- 5.1.4. Planning permission was refused by Dublin City Council on 28<sup>th</sup> May, 2018 on the basis that the proposed development would result in a significant breach of the established and coherent building line along this section of Clonliffe Road be unduly obtrusive and out of character with the area and would therefore seriously injure the amenities of the area and properties in the vicinity.
- 5.1.5. The proposed demolition of No. 200 Clonliffe Road would result in an unacceptable loss of \_\_\_\_\_ fabric as one of the earliest Victorian buildings along the road. As such the proposal is contrary to development plan policy CHC1 which seeks to preserve the built heritage of the city.
- 5.1.6. The third reason for refusal stated that the proposed development by reason of the siting of a dwelling to the front of and within the curtilage of a protected structure would seriously detract from the setting of No. 202 Clonliffe Road. Accordingly, the proposal would materially affect the setting of the protected structure and therefore be contrary to the development plan.

## **6.0 Grounds of Appeal**

- 6.1. The decision of Dublin City Council to issue notification to refuse planning permission was the subject of a first party appeal on behalf of the applicant Bartra Limited by Doyle, Kent Planning and Architecture. The grounds of appeal set out details of the planning application and details of the site and its surroundings. In describing the site it is stated that as it stands the current site accommodates buildings and structures of very poor condition and that this section of Clonliffe Road is in urgent need of investment as it currently represents an eyesore. It is stated that the site can be classed as a brownfield infill location. The site of the proposed development is in a very accessible part of the city within walking distance of the city centre and is well served by public transport. And that there are envisaged plans to upgrade the rail network in vicinity of the site. It is suggested that the property should be treated as a centrally located site for the purposes of transportation including parking provision. Details of the planning history are also set out.
- 6.2. It is stated that with the exception of concerns in respect of the building line and overlooking of adjoining property the Planning Authority's report indicates a generally positive view of the proposed development.
- 6.3. It is suggested that given the current state of dilapidation and substantial gaps in the building fabric there is no established coherent building line along this section of Clonliffe Road. The proposal represents development of superior architectural quality which conforms with government guidance and development plan policy in respect of increasing densities and protecting architectural heritage. Details of how the proposal accords with national, regional and local policy is set out in the planning report submitted with the application. The site is located in a highly accessible urban area which is neither an architectural conservation area or a residential conservation area. The Board are also asked to note that there are proposals for other major redevelopment of large blocks of land to the north occupied by the former Holy Cross College and related buildings.
- 6.4. The architectural design statement submitted with the application illustrates how the existing built fabric of Clonliffe Road has been closely studied and reinterpreted to achieve a contemporary design solution for the subject site which pays appropriate

respect to existing development. The parameters used to inform the design concept is set out in the grounds of appeal.

- 6.5. It is suggested that the Planning Authority's decision in this instance may have been influenced by previous decisions in respect of cases on the subject site. However, it is argued that the current development incorporates a different context with a higher level of design. The development has been designed to establish a new presence both up to Clonliffe Road and onto Holy Cross Avenue. It is not considered that the building of four floors can be considered particularly high. The proposed apartment building is designed to terminate with a strongly expressed "book end section" acting as an entrance pavilion to Holy Cross Avenue. The proposal will argue it will have a very positive effect on Holy Cross Avenue. The proposal will constitute a significant improvement to the public realm of the Avenue.
- 6.6. The proposed development would reflect the generally north/south alignment of the proposed hotel granted recently under Reg. Ref. 2935/20<sup>1</sup>.
- 6.7. It is noted that Holy Cross Avenue will provide a secondary route for pedestrians from Clonliffe Road into a new development on the College lands.
- 6.8. While it is argued that the proposed development would be unduly obtrusive and out of character with the area it is respectfully submitted that this is a not a reasonable assessment of the visual impact of the proposed development. Furthermore, the decision takes no account of either the existing state of dilapidation or the design quality of the proposed development. The proposal it is argued will constitute a strong visual addition when viewed along Clonliffe Road. The new development is compatible with existing buildings on Clonliffe Road particularly in reference to external materials while being of contemporary design. The proposed development will mediate between the larger scaled buildings of Holy Cross College to the rear and the smaller scale of the houses on the southern side of Clonliffe Road.
- 6.9. In respect of overlooking it is stated that the site being an urban location that some level of overlooking of outdoor areas is inevitable. The National Planning Framework seeks to move away from rigidly applied blanket planning standards in favour of performance based standards to ensure well designed high-quality outcomes. A

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<sup>1</sup> The Board should note that Dublin City Council's notification to grant planning permission was the subject of multiple third party appeals and is currently with An Bord Pleanála under Reg. Ref. ABP308193-20.

drawing is attached demonstrating that design measures will ensure no significant overlooking from balconies or habitable rooms will occur from the proposed development. The proposal does not directly face the adjoining house at No. 200 Clonliffe Road. No. 200 Clonliffe Road currently accommodates multiple units in residential use. A two-storey extension was built to the rear of No. 200 Clonliffe Road close to the boundary of 198 and this extension presents a generally blank elevation to the appeal site with the exception of some small bathroom windows.

6.10. At upper floor levels the proposed development has been designed to minimise any overlooking and this is indicated on Drawing No. 359CR-SHA-Z1-00-DR-A-0320 which is supplementary to the architectural design statement. The reduction in overlooking is achieved by a combination of using specifically designed and positioned windows and employing vertical slats to the balconies angled in order to avoid any direct overlooking. Very minor adjustments have been made to some of the windows compared with the drawings submitted with the application. It is argued that the proposed development would have a very positive impact on the amenity and would provide a greatly enhanced setting in the vicinity of this building.

6.11. Finally, by way of conclusion it is stated that the approach of \_\_\_\_\_ strongly to reinstate the previous pattern of development does not seem of appropriate merit and has exacerbated the on-going deterioration of the built environment. The proposal compares very well with other department developments in Dublin and would clearly produce a better outcome than the present peak prospect. A refusal of planning permission does not represent the best use of a substantial plot of serviced land which in itself carries no conservation designations and is in a state of complete dereliction.

## **7.0 Appeal Responses**

7.1. Dublin City Council have not submitted a response to the grounds of appeal

## **8.0 Observations**

8.1.1. A total of two observations were submitted supporting the decision of the Planning Authority. The observations are summarised below.

#### Observation from Diarmuid Hanifin

It is stated that sensitive and sustainable development of the site would be welcomed by many in the area. However, the local authority have been consistent in its reason for refusal that proposals to redevelop the site thus far have been injurious to both the protected structure and the area immediately surrounding the site. The impact of the proposal in terms of its scale and bulk on the context of the protected structure are particularly pertinent issues. It is noted that lands at the western end of Clonliffe Road are zoned Z2 – residential conservation area.

Despite a number of alterations Clonliffe Road manages to retain its Victorian era setting particularly at its western end. The established building line is a major component of establishing this character. 202 Clonliffe Road is a protected structure and it is argued that the adjoining development at No. 200 should also be given strenuous protection. A break in the existing property line between 202 and 192 Clonliffe Road would be highly detrimental to the setting of the protected structure. The local authority has been consistent that any development on this site should retain the established property line. The application also intends to breach the current height parameters significantly. It is argued that there is uniformed height amongst the existing structures along Clonliffe Road. Kingston Lodge infill development is located on Clonliffe Road approximately 100 metres to the west of the application. It is argued that Kingston Lodge was developed in keeping with the established property line and its roadside appearance is also in keeping with the design and setting of the existing Victorian era properties on either side of it.

#### Observation from Peter Branagan and William Spence

From the outset the Board are requested to note that the observation submitted is signed by a group of circa 150 local residents despite being only one observation. It is noted that on three separate occasions Dublin City Council have steadfastly refused to allow a breach in the established building line and the Board are asked to note the previous observations submitted in the case of previous applications on site 2049/17 and 2634/18. The two amendments to the design submitted in the appeal are minor in nature and do not address the major concerns in relation to the bulk, height and overall design of the proposal.

Reference is made to drawings contained in the supplementary design statement which suggests that they have been conceived in order to show the development as being as unintrusive as possible.

No reference should be made to the hotel development proposed under 2935/20 (currently on appeal with the Board under Reg. Ref. ABP308193) as justification to grant planning permission for the current development on appeal. It is argued that the applicant has used perspective in order to present the building to look smaller than it might actually appear on the ground.

It is also suggested that there is an anomaly in Dublin City Council refusing planning permission for the current application and for the residential development at granting planning permission for the hotel on a site to the east. It is argued that the appellant in this instance should not use the granting of the hotel as justification for a grant of planning permission for the appeal site. In the opinion of the observer both should be refused.

## **9.0 Planning Policy Context**

### **9.1. National Planning Framework**

- 9.1.1. One of the overarching goals set out in the National Planning Framework is to achieve compact growth. This is to be achieved by carefully managing the sustainable growth of compact cities, towns and villages. It is noted that the physical format of urban development in Ireland is one of the greatest national development challenges. The preferred approach would be the compact development that focuses on reusing previously developed brownfield land and reusing and redeveloping existing sites and buildings where possible. National Policy Objective 3(b) seeks to deliver at least half of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick and Galway within their existing built-up footprints. National Policy Objective 13 seeks that in urban areas planning and related standards including and in particular height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables



alternative solutions to be proposed to achieve stated outcomes provided public safety is not compromised and the environment is suitably protected.

- 9.1.2. National Policy Objective 35 seeks to increase residential density in settlements, to a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site based regeneration and increased building heights.

## **9.2. Rebuilding Ireland – Action Plan for Housing and Homelessness**

- 9.2.1. Pillar 3 of this national strategy seeks to build more homes by increasing the output of private housing to meet demand at affordable prices. In terms of housing supply requirements, it is noted that current completion levels must double in the next four years. It is also noted that there is a significant requirement to expand the “Build to Rent Sector” which is not being catered for in the current construction levels. There is also a need to increase the level of social housing. The Rebuilding Ireland policy emphasises the need to supply and build more homes with the delivery of housing across the four Dublin Local Authorities.

### Sustainable Urban Housing Design Standards for New Apartments

These guidelines note that in the short-term to 2020 the Housing Agency has identified a need for at least 45,000 new homes in Ireland’s five major cities more than 30,000 of which are required in Dublin City and Suburbs. This does not include the additional pent-up demand arising from undersupply of new housing in recent years. In broader terms there is a need for an absolute minimum of 275 new homes in Ireland’s cities up to 2040 with half of these located within built-up areas. This necessitates a significant and sustained increase in housing output and apartment type development in particular. Specifically, there is a need:

- To enable a mix of apartment types that better reflects contemporary household formation and housing demand patterns and trends particularly in urban areas.
- Make better provision for building refurbishment and small scale urban infill schemes.
- Address the emerging build to rent and shared accommodation sectors.

- Remove requirements for car parking in certain circumstances where there are better mobility solutions to reduce costs.

In terms of identifying the types of locations within cities that may be suitable for apartment development the guidelines note the following:

In central and/or accessible urban locations such locations are generally suitable for small to large scale density development which may wholly comprise of apartments. These include:

- sites within walking distance of the principle city centres or significant employment locations that may include hospitals or third level institutions,
- sites within reasonable distance to or from high capacity urban transport stops such as Dart or Luas, and
- sites within easy walking distance i.e. up to 5 minutes to and from high frequency bus services.

### **9.3. Urban Development and Building Heights – Guidelines for Planning Authorities**

9.3.1. These Guidelines again highlight the need for a development plan to place more focus in terms of planning policy and implementation on reusing previously developed brownfield land building up urban infill sites. It notes that increasing building height is a significant component in making the optimum use of the capacity of sites in urban locations where transport employment, services and retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include the positive disposition towards appropriate assessment criteria that will enable the proper consideration of development proposals for increased building height linked with the achievement of greater density of development.

9.3.2. It is acknowledged that taller buildings will bring much needed additional housing and economic development to well-located urban areas and that they can also assist in reinforcing and contributing to a sense of place within the city or town centre.

- 9.3.3. The Guidelines note that statutory development plans have tended to be overtly restrictive in terms of maximum building heights in certain locations and crucially without the proper consideration of the wider planning potential of development sites. Such displacement presents a lost opportunity in key urban areas of high demand for new accommodation whether it is for living, working, leisure or other requirements in the built environment.
- 9.3.4. Planning policy must therefore become more proactive and more flexible in securing compact urban growth through a combination of facilitating increased densities and building heights while also being mindful of the quality of development and balancing amenity and environmental considerations. Appropriate identification and siting of areas suitable for increased densities and height will need to consider environmental sensitivities of the receiving environment as appropriate throughout the planning hierarchy.
- 9.3.5. Paragraph 2.8 notes that historic environments can be sensitive to largescale tall buildings. In that context Planning Authorities must determine if increased height buildings are appropriate in these particular settings.
- 9.3.6. Taking into account the foregoing, the specific planning policy requirement of the above guidelines under SPPR1 is
- *In accordance with government policy to support increased building height and density in locations with good public transport accessibility, particularly town/city cores, Planning Authorities shall explicitly identify through the statutory plans, areas where increased building heights will be actively pursued for both redevelopment, regeneration and infill development to secure the objectives of the National Planning Framework and Regional Spatial and Economic Strategies and shall not provide for blanket numerical limitations on building height.*
- 9.3.7. Special planning policy requirement SPPR2 states that in driving general increases in building heights, Planning Authorities shall also ensure appropriate mixtures of uses, such as housing, commercial and employment development, are provided for in the statutory plan context.

#### 9.4. Development Plan Provision

- 9.4.1. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022. The subject site is zoned Z1 '*to protect, provide and improve residential amenities*'. Residential use is a permissible use under this zoning.
- 9.4.2. Chapter 5 of the development plan relates to Quality Housing.
- 9.4.3. Policy QH5 seeks to promote residential development addressing any shortfall in housing provision through active land management and co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and underutilised sites.
- 9.4.4. Policy QH6 seeks to encourage and foster the creation of attractive mixed use, sustainable neighbourhoods which contain a variety of housing types tenures with supporting community facilities, public realm and residential amenities which are socially mixed in order to achieve a socially inclusive city.
- 9.4.5. Policy QH7 seeks to promote residential development at sustainable urban densities throughout the city in accordance with the core strategy having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.
- 9.4.6. Policy QH8 seeks to promote the sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and character of the area.
- 9.4.7. Policy QH18 seeks to promote the provision of high quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and with each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with standards for residential accommodation.
- 9.4.8. Policy QH19 seeks to promote the optimum quality and supply of apartments for a range of needs and aspirations, including households with children, in attractive sustainable mixed income, mixed use neighbourhoods supported by appropriate social and other infrastructure.

- 9.4.9. Section 16.7 relates to building height in a sustainable city. Dublin City Council acknowledges the intrinsic quality of Dublin as a low-rise city and its policy is that it should predominantly remain so. There was a recognised need to protect conservation areas and the architectural character of existing buildings, streets and spaces of artistic civic or historic importance. In particular, any new proposal must be sensitive to the historic city centre, the River Liffey and Quays, Trinity College, Dublin Castle, the historic squares and the canals.
- 9.4.10. It is important to protect and enhance the skyline of the inner city and to ensure that any proposals for high buildings make a positive contribution to the urban character of the city and create opportunities for place making and identity. In the case of low-rise areas (which the subject site is located) a maximum height of 28 metres may be permissible.
- 9.4.11. In terms of aspect natural lighting and sunlight penetration the development plan notes that daylight animates the interior and makes it attractive and interesting as well as providing light to work or read by. Good daylight and sunlight contribute to making a building energy efficient, it reduces the need for electronic lighting while winter solar gain and reduce heating requirements.
- 9.4.12. The indicative plot ratio for Z1 zonings in the inner city is 0.5 to 2.0 and the indicative site coverage for sites governed by the Z1 zoning objective is 45 to 60%.

## **9.5. Environmental Designations**

- 9.5.1. The subject site is not located within or contiguous to any Natura 2000 site. The nearest European site to the proposed development is the South Dublin Bay and River Tolka SPA which at its closest point is located c.1.7 kilometres to the south-east of the subject site. The South Dublin Bay SAC lies c.4.1 kilometres to the south-east while the North Dublin Bay SAC lies c.4.9 kilometres to the east. The North Bull Island SPA also is located c.5 kilometres to the east.

## **10.0 EIA Screening Determination**

The appendix of the planning report submitted with the application includes an environmental assessment screening. It concludes that the proposed development is not likely to give rise to significant effects on the environment. I note the relevant

classes for consideration in respect of EIA are Class 10(b)(i) the construction of more than 500 dwelling units and Class 10(b)(iv) development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of the built-up area and 20 hectares elsewhere. Having regard to the modest size of the site at 0.18 hectares and the number of residential units to be provided at 36 it is considered that having regard to the nature and scale of the proposed development and the location of the development on an urban brownfield site together with the characteristics and likely duration of potential impacts that the proposed development is not likely to have significant effects on the environment and that the submission of an environmental impact assessment report is not required. The need for an environmental impact assessment can therefore be excluded by way of preliminary examination. An EIAR preliminary examination form has been completed and a screening determination is not required.

## **11.0 Planning Assessment**

I have read the entire contents of the file, visited the subject site and its surroundings, have had particular regard to the planning authority's sole reason for refusal and the grounds of appeal challenging this reason. I have in my assessment below also have had regard to the observations contained on file and the policies and provisions contained in national and local guidelines. I consider the following issues to be critical in determining the current application and appeal before the Board.

- Principle of Development
- Strategic Land Use Issues
- Building Line
- Size and Scale of Proposal
- Impact on Adjoining Privacy
- Impact on Protected Structures in the Area
- Other Issues

### **11.1. Principle of Development**

- 11.1.1. A fundamental consideration in adjudicating on the current application is the zoning provisions pertaining to the site. The site is zoned for residential development and as such the principle of development is in my view acceptable. The proposed residential use on site is therefore wholly compatible with the land use objectives and as such it is my considered opinion that the proposed apartment development subject to qualitative safeguards in respect of design and amenity is acceptable in principle on the subject site.

### **11.2. Strategic Land Use Issues**

- 11.2.1. The Board in adjudicating on the current application should have regard to numerous national policy guidelines pertaining to residential development and land use strategic planning which had been adopted in recent years and with the exception of the adopted policy entitled Rebuilding Ireland Action Plan for Housing and Homelessness were all adopted subsequent to the adoption of the Dublin City Development Plan. In this regard the Board will be cognisant of the fact that many of the policy statements contained in the National Planning Guidelines referred to above and particularly the National Planning Framework would supersede many of the policy statements contained in the Dublin City Development Plan.
- 11.2.2. It is clear from the guidelines referred to above that there is an increased emphasis on maximising the development potential of sites in urban areas particularly in relation to housing development. A major thrust of the National Planning Framework seeks a preferred approach for more compact development that focuses on reusing previously developed brownfield lands and building on infill sites within existing built-up areas. The site which is the subject of the current appeal would in my view fall within a category of site that is eminently suitable to fulfil these objectives.
- 11.2.3. The National Planning Framework seeks to encourage more people, jobs and activity to be located within existing urban areas. The plan seeks to deliver at least half of all new homes to be located within the city. The strategy concludes that it is clear that we need to build inwards and upwards rather than outwards and this means that apartments will need to become the more prevalent form of housing particularly in Ireland's cities. National Policy 35 seeks to increase residential density in settlements through a range of measures including reductions in vacancy, the

reuse of existing buildings, infill development schemes, area of site based regeneration and building heights.

11.2.4. Both the Planning Authority and the observations on file emphasis the environmental sensitivity of the surroundings of the subject site being located on a Victorian street which has retained much of its Victorian character.

11.2.5. It is acknowledged that the street on the whole incorporates an aesthetically pleasing inner suburban exclusively residential character which would require any future intervention to be responsive to the existing environment.

11.2.6. Notwithstanding this point it is my considered opinion particularly having regard to the more recently adopted guidelines that the Board in developing opportunity sites close to the city centre such as the subject site cannot slavishly adhere to extant parameters in respect of building height and building lines etc. which are dictated existing layouts. There are in my opinion wider and perhaps more important strategic citywide considerations that the Board must take into consideration in developing sites such as the one before it. There are a plethora of strategic considerations which would support the development of the subject site at increased and more sustainable densities than that which currently exist in the surrounding area. Many of these include:

- The need to provide new housing units in order to address the shortfall in supply of housing provision nationally and in particularly in Dublin. The need to provide more housing units is stated throughout the various policy documents referred to above.
- The need to support existing social infrastructure in the area including schools, service centres and local retail.
- The need to rejuvenate the city centre and areas surrounding the city centre in terms of investment and replenishing population.
- The need to utilise existing infrastructure and services including water supply, foul sewage, roads, footpaths and public light etc. rather than having to provide such infrastructure at the edge of existing cities through new greenfield development.



- The need to provide attractive liveable high quality urban spaces in close proximity to centres of employment.
- The need to arrest the continuous urban sprawl which reduces the amount of agricultural and amenity lands surrounding cities.
- The need to support and increase demands for a high capacity urban public transport network within the city centre. The need to create more sustainable forms of transport by encouraging cycling and walking to and from the city centre which in turn will promote more healthy and active lifestyles for urban populations.

11.2.7. Therefore, while the Board should have regard to the existing design parameters and character which would influence the layout of any proposed new developments along Clonliffe Road. These considerations need to be balanced against wider and very important strategic land use considerations which would favour higher density developments on the subject site over and above that which might be dictated by merely conforming and replicating the prevalent layout.

11.2.8. Developing the subject site based not the prevailing height and form would in my view present a missed opportunity for realising many of the wider strategic objectives referred to above. On this basis I consider the principle of higher density development which would depart from the prevailing density along Clonliffe Road maybe appropriate. The site offers a good opportunity to provide a scale of development which is more reflective of current strategic policies and provisions in accordance with national policy and also in accordance with Policy QH8 of the development plan which seeks to promote the sustainable development and vacant or underutilised infill sites and favourably consider higher density proposals which respect the design of the surrounding development and character of the area. A reasonable balance therefore must be struck between the wider strategic objectives and the need to provide qualitative safeguards on the inherent design and residential environment of the surrounding area. The qualitative impacts arising from the development are assessed in more detail under the headings below.

### 11.3. **Building Line**

11.3.1. Notwithstanding the assertions set out in the grounds of appeal there can be little doubt that there is an existing established building line between the dwellings of 202

Clonliffe Road to 182 Clonliffe Road in the immediate vicinity of the site. There can in my view be no dispute that the development as proposed will significantly alter the established building line. Notwithstanding this point and having regard to the arguments set out above in relation to strategic land use considerations it would in my view be a missed opportunity to develop the subject site while maintaining the same building line and same height parameters associated with the adjacent buildings. The building line is setback over 40 metres from the front boundary of the site and this would result in the rear half of the site only being available for development. This would not in my considered view represent an appropriate or efficient utilisation of serviced land in close proximity to the city centre.

- 11.3.2. Furthermore, along the wider Clonliffe Road alignment there is a considerable variation and no uniformity in building lines. Dwellings further west along the northern side of Clonliffe Road incorporate a variety of building lines in the vicinity of Kingston Lodge while dwellinghouses to the east of Holy Cross College and diocesan centre likewise incorporate a variety of setbacks along the roadway. The uniformity in building line is much more apparent on the southern side of Clonliffe Road where there is no variation in the uniformity in terms of its setback from the road. The fact that the northern side of Clonliffe Road incorporates a variety in building line together with large gaps along the road frontage in my view allows for a greater flexibility in terms of developing the plot and subject to appropriate design, massing and height considerations which are assessed in more detail below I consider that there is greater scope to allow more flexibility in design terms.

#### **11.4. Size and Scale of Proposal**

- 11.4.1. Concerns were expressed the Planning Authority's reason for refusal that the proposed development would be obtrusive and out of character at this location.
- 11.4.2. In terms of the size and scale of the building I do not consider that the provision of a three/four-storey development within an existing built-up urban area can be considered excessive in terms of height and scale particularly in light of the need to develop sites at more sustainable densities as espoused in the guidelines referred to above. The proposed size and scale of the development in my view represents an appropriate compromise in terms of providing development at more appropriate densities and reflecting the prevailing character of the surrounding area. The

National Planning Framework is clear and unambiguous in its conclusion that the Planning Authorities need to build inwards and upwards rather than outwards. In this regard there is a requirement to ensure that new developments do not slavishly and mimic prevailing and existing heights in the immediate area. Dublin by its nature including large areas of the inner suburban city centre are predominantly low density and suburban in nature c.3 to 4 storeys in height. If new developments are merely emulative of the prevailing height and scale no significant progress will be made in terms of realising the strategic objectives in respect of future land use development at national level.

- 11.4.3. There are numerous examples of three-storey buildings in the immediate vicinity of the site including Nos. 202 and 200 Clonliffe Road and adjoining dwellings to the immediate east at No. 190 and 192 Clonliffe Road. The main structure proposed on the current site is three-storeys with a fourth floor added to the rear and to the front of the building. The relative narrowness of the site will in my view ensure that the front elevation incorporating the four-storey element will not look excessively bulky or out of context with the prevailing character of the area. Furthermore, I consider the elevational treatments which incorporate extensive use of brick will ensure that the appearance of the building will look sympathetic and reflective of the elevations in the surrounding area.
- 11.4.4. Finally, in relation to the size, scale and bulk of the structure while it is acknowledged that the prevailing buildings fronting onto Clonliffe Road are in the main two and three-storey red bricked relatively narrow plot structures. There are particularly to the rear and north of Clonliffe Road a larger complex of buildings of significant scale and bulk which contribute to the overall character of the road. Many of these larger structures are visible from vantage points along the road. To suggest therefore that there is no precedent for buildings of the size and scale in the vicinity of the subject site is not appropriate in my view. The development plan also sets out permissible indicative plot ratios and site coverages for the Z1 zoning objective. The indicative plot ratio for inner city is 0.5 to 2.0 and the indicative site coverage is 45 to 60%. The proposed development sits comfortably within these parameters with a plot ratio of 1.4 and a site coverage of 40%.
- 11.4.5. On the basis of the arguments set out above I do not consider that the size and scale of the proposed development is incompatible with the existing environment.

## **11.5. Impact on Adjoining Privacy**

- 11.5.1. The planner's report states that the Planning Authority would raise significant concerns regarding the positioning of the proposed development in relation to neighbouring properties to the west. The proposed layout of east/west facing units would incorporate the positioning of habitable windows and areas of private open space directly facing neighbouring residential property less than 5 metres from the shared boundary. Having inspected the site I consider that the Board can restrict its deliberations in terms of overlooking to the potential impact on the adjoining property to the immediate west. I do not consider that the proposal represents a significant threat or concern in relation to overlooking of buildings on the eastern side of Holy Cross Avenue or the Catholic Church to the rear. It is evident from the photographs attached that No. 200 Clonliffe Road incorporates an extension to the rear which appears to incorporate three floors, one at attic level. Two windows are located at first floor level directly overlooking the site. These are small window openings and do not give rise to any significant potential for the overlooking of these rooms.
- 11.5.2. The balustrade design of the balconies as indicated on Drawing 359CR-SHA-Z1-00-DR-A-0320 indicates that oblique overlooking will be substantially reduced from the westward facing balconies onto the adjoining site at No. 200 Clonliffe Road. Furthermore, the adjoining dwelling to the west according to the information submitted in the grounds of appeal is in multi-unit occupancy and therefore the open space to the front and rear of the building constitutes communal private open space and not private amenity open space associated with a private dwelling. It is reasonable in the redevelopment of urban infill sites which is that proposed that overlooking levels will be increased as a result of the proposed development. It is my considered opinion in this instance that the level of overlooking that will occur as a result of the redevelopment of the subject site would not be so significant or severe so as to warrant a refusal of planning permission on these grounds alone.

## **11.6. Impact on Protected Structures in the Area**

- 11.6.1. No. 202 is a protected structure and constitutes the only protected structure along the row of buildings adjacent to Holy Cross Avenue on the northern side of Clonliffe Road. The church to the rear of the site is also a protected structure. Notwithstanding this and the Board will note in the photographs attached that No.

202 Clonliffe Road is a derelict structure in a poor state of disrepair and includes external bracing on its walls to provide structural support. Metal cladding covers the existing opes and there appears to be slates missing and water egress through the roof. The adjoining building at No. 200 Clonliffe Road although not a protected structure is in significantly better condition than the protected structure in question. In relation to the proposed development's impact on the protected structure I consider that the development of the subject site on the basis of the design and drawings submitted with the application would result in a significantly enhanced environment which would add to and improve the setting of the said protected structure. The proposed development would result in the development of a derelict site which currently constitutes a significant eyesore which adversely impacts on the visual amenities of the area. It is my considered opinion that the development of the subject site in accordance with the proposals would improve the visual amenities of the area and in doing so improve the context and setting of the derelict structure which is on the list of protected structures.

#### **11.7. Other Issues**

- 11.7.1. Although not specifically referred to in the Planning Authority's reason for refusal or addressed in the first party's appeal to the Board I do note the contents of the Transportation Planning Division's report particularly in respect of car parking provision. It is proposed to provide three car parking spaces to cater for the proposed development. The subject site is located in Parking Area 2 where there is a general requirement of 1 space per dwelling. The standards in this instance fall considerably short of this requirement. However, the design standards for new apartments clearly state that in larger scale higher density developments comprising wholly of apartments in more central locations that are well served by public transport the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The subject site is well served by public transport. The site is located less than 300 metres from Drumcondra Rail Station (4 minutes walk) and less than 300 metres from Drumcondra Road Lower which accommodates an array of high frequency bus services. A total of 12 bus routes run along Drumcondra Road. It can be reasonably argued therefore that the subject site is well catered for in terms of public transport. Furthermore, the site is less than 2 kilometres from the city centre and therefore the city centre is readily

accessible by way of walking and cycling. The Roads and Transport Division of Dublin City Council did not recommend a refusal of planning permission. It did however express serious concerns with regard to the lack of car parking. As an alternative the applicant according to the report should be requested to consider changing the proposed car parking spaces to car share only. And this could be explored with a car club provider and relevant documentation from same confirming their agreement to provide vehicles to serve the development could be submitted. If the Board consider this to be an appropriate solution to the modest amount of car parking provided on site it could in my view address this issue by way of condition.

- 11.7.2. Also, one of the observations on file suggested that the Board should not take into consideration Dublin City Council's grant of planning permission for a hotel on lands to the east of the subject site as justification for granting planning permission for the proposed residential development. The observation notes that the decision of Dublin City Council to grant planning permission has been the subject of a third party appeal and therefore no final decision has been made in respect of the hotel development. The decision of Dublin City Council to issue notification to grant planning permission for a hotel development on a site to the east of the subject site has been the subject of multiple third party appeals and this application is currently before the Board under Reg. Ref. 308193-20. The Board may consider it appropriate that both appeals would be determined either together or with reference to one another.

## **12.0 Appropriate Assessment**

- 12.1. The application was accompanied by an appropriate assessment screening report which concluded that adverse impacts on Natura 2000 sites in the vicinity cannot be ruled out and on this basis a Natura Impact Statement was submitted with the application.
- 12.2. The screening report acknowledges that the proposed development will not result in any direct habitat loss associated with European site nor will it result in any habitat degradation as a result of hydrological or hydrogeological impacts arising from the proposed development. It does note however that there is an established stand of Japanese Knotweed on site and there is potential for this species to be transferred

downstream to European sites located in Dublin Bay via the combined sewer system.

- 12.3. Therefore, apply the precautionary principle a Stage 2 Appropriate Assessment and the production of a Natura Impact Statement was submitted with the application.
- 12.4. For the purposes of completion, it is proposed to carry out an independent appropriate assessment screening exercise in respect of the proposed development.
- 12.5. The Stage 1 Screening Report submitted with the application correctly identified in my opinion a total of four European sites which could potentially be impacted upon as a result of the proposed development to be undertaken. These include:
- the South Dublin Bay and River Tolka Estuary SPA which at its closest point is estimated to be approximately 1.7 kilometres south-east of the subject site,
  - the South Dublin Bay SAC which is located c.4.1 kilometres to the south-east of the proposed development, and
  - both the North Dublin Bay SAC and the North Bull Island SPA both of which are located just less than 5 kilometres from the subject site.
- 12.6. The proposed development being located at a sufficient remove from the European sites in question will not result in any habitat loss or fragmentation and this conclusion is supported by the Appropriate Assessment Screening Report submitted with the application. In terms of potential hydrological impacts, I note that the screening report submitted has been undertaken in the absence of consideration of any SuDS and pollution control measures. It is noted that surface and foul waters from the proposed development will be discharged to the Ringsend Wastewater Treatment Plan for treatment via the existing Dublin City Council combined foul and surface water drainage network prior to any discharge. The Ringsend Wastewater Treatment Plant has been the subject of an appropriate assessment where the Board granted planning permission for the upgrade of the plant in April, 2019 (Reg. Ref. ABP301798). It is reasonable to conclude therefore that the proposed development will not impact on the water quality status of Dublin Bay. In terms of in combination effects the screening report submitted notes that Dublin Bay is currently unpolluted and that the proposed development will not result in any measurable

effects on water quality in Dublin Bay and therefore no in combination effects will occur.

- 12.7. In terms of hydrogeological impacts, the AA screening report identifies groundwater dependent SACs in the wider area. There are no groundwater dependent SACs within a 15 kilometre radius of the subject site and therefore no hydrogeological impacts will occur.
- 12.8. The only potential impact identified in the appropriate assessment screening report relates to the possibility of introducing/spreading non-native invasive species as there is a stand of Japanese Knotweed located at the property boundary between 196 and 198 Clonliffe Road. The AA screening report states that there exists the possibility of this invasive species being transferred from the proposed development site downstream to European sites via the surface water drainage system or by other means. A report on invasive species controls submitted with the application considers various control options. It is reckoned that Option No. 4 the controlled excavation with off-site disposal is the preferred option. This will involve each stand of Japanese Knotweed being excavated under the supervision of a specialist invasive species contractor whereby the actual plant together with the contaminated soil will be removed from the site and disposed of at a previous identified licensed landfill. It is my considered opinion that the implementation of the dig and dump method with the removal of all plant and contaminated soil off-site will not result in any potential spread of the invasive species via the combined sewer treatment system as identified in the appropriate assessment screening report. It is my considered opinion therefore that the Board can screen out any potential significant impacts on qualifying interests associated with Natura 2000 sites in the vicinity. I consider that the proposed development will not have any direct, indirect or in combination effects on the European sites identified and therefore I will conclude that a Stage 2 Appropriate Assessment is neither warranted or justified in this instance.
- 12.9. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out a screening for appropriate assessment it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on any European sites in the vicinity in view of the



site's conservation objectives and an appropriate assessment and submission of an NIS was therefore not required. This determination was based on the following:

- The application had not potential to result in habitat loss, habitat degradation as a result of hydrological or hydrogeological impacts, had not potential to create disturbance or displacement impacts and has not potential of creating habitat degradation as a result of introducing/spreading non-native invasive species. In making this screening determination no account has been taken of any measures intended to avoid or reduce potentially harmful effects of the project on European site.

### **13.0 Conclusions and Recommendation**

Arising from my assessment above I consider the proposed development to be in accordance with the proper planning and sustainable development of the area and in accordance with the wider strategic objectives set out in various policy documents referred to above at national and local level. I consider any adverse impacts on the visual amenity and prevailing character and density of the area is required to be balanced against the wider strategic necessity to provide additional residential units within the city centre at higher more sustainable densities and on this basis the proposed development is deemed to be appropriate for the subject site. I further consider that the overall design, layout and scale of the development is compatible with the prevailing character of the area. On this basis I recommend the decision of Dublin City Council be overturned and that planning permission be granted for the proposed development based on the reasons and considerations set out below.

### **14.0 Reasons and Considerations**

Having regard to the Z1 zoning objective pertaining to the site and the policies and provisions contained in the National Planning Framework, the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities which seek to provide urban development including residential development at more compact and sustainable densities to enable people to live near to where jobs and services are located, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the

amenities of the area or property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 15.0 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 plans and particulars received by An Bord Pleanála on 14<sup>th</sup> day of September, 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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

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

**Reason:** In the interest of visual amenity.

3. 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.

4. The applicant or developer shall enter into a water and/or wastewater connection agreement with Irish Water prior to commencement of this development.

**Reason:** In the interest of orderly development.

5. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

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

and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

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

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

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

**Reason:** In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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

**Reason:** In the interest of sustainable waste management.

7. 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 the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of residential amenity.

8. The proposed car parking spaces to be provided shall be car share only. Details of the proposed car club provider confirming their agreement to provide vehicles to serve the development shall be agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interest of sustainable transport.

9. A total of 68 bicycle parking spaces shall be provided within the scheme. Details of the layout shall be as per the documentation submitted with the planning application.

**Reason:** To ensure that adequate bicycle parking provision is available to

serve the proposed development in the interest of sustainable transportation.

10. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. The agreed lighting system shall be fully implemented and operational, before [the proposed development] [any of the commercial units] are made available for occupation.

**Reason:** In the interest of public safety and visual amenity.

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

**Reason:** In the interests of visual and residential amenity.

12. Site development and building works shall be carried out only between the hours of 0700 to 1800 hours Monday to Friday inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or bank 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.

13. Site development and construction works shall be carried out in such a manner so as to ensure that adjoining streets are kept clear from debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public road the said cleaning works shall be

carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safety condition during construction works in the interest of orderly development.

14. The naming and numbering of the scheme shall be agreed in writing with the planning authority prior to the occupation of the units.

**Reason:** In the interest of orderly street numbering.

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

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

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. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. 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:** In the interest of traffic safety and the proper planning and sustainable development of the area.

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Paul Caprani,  
Senior Planning Inspector.

XX December, 2020.