



An
Bord
Pleanála

Inspector's Report

ABP-308542-20

Development	Demolition of The Blackhorse Inn and two semi-detached houses. Construction of a 3-7 storey building, accommodating 56 apartments & ground floor cafe.
Location	229-235 Tyrconnell Road, Inchicore, Dublin 8
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2372/20
Applicant(s)	Alanna Homes
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Alanna Homes
Observer(s)	Inland Fisheries Ireland
Date of Site Inspection	17 th February 2021
Inspector	Adrian Ormsby

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1.0 Site Location and Description

- 1.1. The site is c.4.5km west of Dublin City Centre at 229-235 Tyrconnell Road in Inchicore. It is located opposite the junction of Tyrconnell Road with Jamestown Road. The site bounds the Goldenbridge Walk towpath along the Grand Canal to its southern boundary. The site is located north of the Blackhorse Bridge and Blackhorse Luas stop.
- 1.2. The River Camac runs in a south to north direction along the sites eastern boundary. The site bounds the river bank of the Camac and there is a very steep gradient down to the river bed. The River Camac exits a culvert just south east of the site where the river flows underneath the Davitt Road and Grand Canal. The Grand Canal flows from west to east along the southern boundary of the site. The Lansdowne Valley Park is located c. 65m south of the site across the Davitt Road.
- 1.3. The site includes two semi-detached hipped roof houses to its north side known as No's 229 and 231 Tyrconnell Road. No 231 does not appear to be currently resided in with some windows damaged or boarded up. Both houses have vehicular access and a low front boundary wall. There is no apparent demarcation between the entrance to No 231 and the lands of the public house other than differences in the hard surfacing.
- 1.4. The sites southern side is made up of a part single and part two storey premises formerly known as the Blackhorse Inn public house with off licence which is currently vacant. There is a large area of hardstanding around the former public house premises which adjoins the public footpath.
- 1.5. The general area is largely residential with two storey houses and a part three storey houses opposite the site. Commercial developments are noted in close proximity north of the site. A nine storey development is located c. 75m south west of the site across the Blackhorse Bridge.
- 1.6. The site can be described as a prominent local site, brownfield and underutilised. It in need of regeneration. The site area is stated as 1600 sq.m.

2.0 Proposed Development

- 2.1. The proposed development comprises of-

- Demolition of the Blackhorse Inn (638 sq.m) and two semi-detached house, 229 and 231 Tyrconnell Road (144 sq.m and 194 sq.m)
- Construction of a part 3-7 storey building with 56 apartments and a ground floor café 106.4 sq.m
 - 37 no. 1-bedroom apartments
 - 19 no. 2-bedroom apartments
- A basement with car lift and 13 car parking spaces and 56 no. bicycle parking spaces
- 4 car parking and 22 bicycle parking spaces at street level around a central courtyard.
- New vehicular access from Tyrconnell Road.

2.2. In addition to the standard documentation and drawings, the planning application was accompanied by various technical reports, including the following:

- Design Statement,
- Mobility Management Plan
- Transport Statement
- Site Specific Flood Risk Assessment
- Engineering Service Report
- Construction Traffic and Waste Management Plan
- Parking Strategy
- Part V Letter
- Qualitative Wind Microclimate Assessment
- Skylight, Sunlight and Shadow Assessment
- Ecological Assessment
- Slope Stability Assessment
- Screening for Appropriate Assessment
- Architectural Heritage Impact Assessment

- Archaeological Assessment
- Tree Survey
- Architectural Visualisation/Photomontages

2.3. The Planning Authority requested Further Information on the 08/06/20 in relation to the following matters-

- Transportation Planning Division concerns including-
 - Sightlines and boundary treatment along the length of Tyrconnell Road and provision of an 'overspill area' for pedestrians along the boundary line.
 - Details of the proposed waste collection and storage which should not take place directly from the public footpath.
 - Further details of the type of cycle parking stands proposed at basement level.
 - The applicant's attention was drawn to Transport Infrastructure Ireland's observation on the application.
- The Drainage Division concerns including-
 - the applicant was requested to carry out a risk assessment to demonstrate that the proposed development will not result in deterioration of status or prevent the River Camac from meeting the Water Framework Directive objective now or into the future
 - the potential instability of the steep river bank that bounds the site in a potential flood situation whereby the Camac River would overtop the low wall at the toe of the slope. This should be investigated further in as the proposal would result in a new development with greater site coverage above the existing circumstances.
 - The applicant was requested to make contact with the Drainage Division and Water Framework Directive Office of Dublin City Council prior to responding.

2.4. The applicant responded to the further information request on the 09/09/20 and included-

- Updated sightline drawings and report from DBFL Engineers including proposals for cycle parking stands at basement level and addressing TII observation on the application.
- Updated Architectural Drawing D.1706.P0.2 in relation to an overspill area for pedestrians to Tyrconnell Road.
- A response to be considered an update to the Transport Statement, Parking Management Strategy and Construction Traffic and Waste Management Plan.
- A Water Framework Directive Risk Assessment
- A Response in relation to the Site Specific Flood Risk Assessment and the Slope Stability Assessment Report. The opinion of McCloy Consulting (Water and Environmental Consultants) is also submitted on these matters and the application.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission on the 06/10/20 for the following reason-

The applicant has failed to adequately demonstrate that the proposed development would not pose a risk to the water quality and biodiversity of the Camac River which is contrary to Policy GI15 of the Dublin City Development Plan 2016-2022 which seeks to protect, maintain and enhance the natural and organic character of watercourses in the city. In this regard the proposed development is considered to be contrary to the proper planning and sustainable development of the area.

4.0 Planning Authority Reports

4.1. Planning Reports

The report of the Planning Officer (dated 06/10/20) appears to reflect the decision of the Planning Authority. It is note the report on file appears to be the same as the report dated 04/06/20 save for the recommendation. Although the report recommends further information it is the refusal reason of the decision of the 06/10/20 that is given. The following is noted from the report:

- Following on from the refusal of DCC Reg. Ref: 4416/18 the applicants have resubmitted the application to include for a slope stability assessment and ecological appraisal.
- The provision of apartments is a permissible use under the Z1 zoning objective. A café is also an open for consideration use in Z1 zoning.
- Proximity of the site to lands zoned Z9 ((amenity/open space lands/green network) and Z3 (Neighbourhood Centres) is noted.
- The development at 3rd lock Hall approved under PL29S.210479 which rises to 9 storeys and 30 metres in height sets a precedent for taller type structures in the area.
- The proposed development is located within 500m of the Blackhorse Luas stop. The site is well served by public transport.
- The applicant has submitted an impact assessment of the micro-climatic effects of the proposed development on its immediate and wider environment.
- The proposed apartments would meet the minimum requirements for apartments as set out under the Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities (2018).
- There is no provision for public open space. The applicant is requested to consider a fee in lieu of the non-provision of public open space as per section 16.10.3 of the Development Plan.

- The potential overshadowing effect and micro-climatic impact of the proposal falls within acceptable parameters. It is not considered that the proposal would adversely impact on the amenity of surrounding residents.
- The proposed vehicular access point will provide a more formalised access point to the north corner of the site. This represents an improvement on the current arrangement. Pedestrian priority across the proposed vehicular entrance should be conditioned if permission is granted.
- The quantum of car parking spaces (17) has not changed from the previous application which was considered acceptable. A condition should be attached to ensure the measures outlined in the Mobility Management Plan are implemented if permission is granted.

4.2. Other Technical Reports

Drainage Division-

- Following a request for Additional Information, refusal is recommended-
 - The submitted Water Framework Directive Risk Assessment has failed to adequately address the environmental, green infrastructure and public open space objectives outlined in the request for further information and demonstrate how they have been incorporated into the design for the proposed redevelopment of this site. The measures referred to in the report, involving the maintenance of the riparian zone, appear to relate to land that is outside the site boundary.
 - Nor does the report adequately evaluate the possible impact of the new development on the hydromorphological condition of the river, as defined under the Water Framework Directive. The building line of the proposed new development is significantly closer to the river bank than that which is in existence currently. There are serious concerns that the proposal would impact on future opportunities to protect and enhance the riparian zone and hence hydromorphological condition of the Camac River at this location.

- The proposed development does not comply with the stated policy in the Greater Dublin Strategic Drainage Study (GDSDS) that refers to development near riparian corridors.

Transportation Division-

- Following a request for Additional Information there is no objection subject to conditions.

4.3. Prescribed Bodies

- TII- The proximity of the site to the Luas line is noted. There are no objections subject to conditions.

4.4. Third Party Observations

There is one third party submission received and on file. The main issues raised can be summarised as follows-

- Development of the Blackhorse Inn site is welcomed.
- In reference to the slope stability Assessment the report states the soil condition of the entire site is 'made ground' The report states there is a 'slip zone' along the top of the bank. The stability of soil is determined by being bound together by the existing tree root network.
- The works will cause a major disturbance to the soil at the top and along the edge of the bank. This could impact the root network of trees.
- The observation suggests no permeable paving be permitted and surface water is taken off site and does not soak the ground.
- Given the proximity of the gable wall of No. 227 Tyrconnell Rd works should not impact on neighbouring buildings. The developer should ensure regular communications and monitoring.

5.0 Planning History

5.1. On site

- 4416/18- 56 apartments, Refusal 03-Jul-2019 for one reason
 - Flood risk associated with the proposed development not adequately addressed in accordance with the Flooding Guidelines and therefore the proposed development would constitute disorderly development. The development may pose a risk to the water quality and biodiversity of the Camac River during construction which is contrary to Policy G115 of the Dublin City Development Plan 2016-2022.

5.2. Relevant applications on nearby sites

- 2173/04, PL29S.210479- 19 no. apartments and a ground floor retail unit arranged in a single 4, 5 and 9 storey block. Grant permission subject to 18 conditions, 10/06/2005.
 - Condition 2 required 15 apartments and one retail unit

6.0 Policy Context

6.1. National Guidelines and Policy

6.1.1. National Planning Framework (NPF) - the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040;

6.1.2. Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DHLGH 2020); The following Sections and Specific Planning Policy Requirements are relevant-

Section 1.3 states-

'The 2018 Guidelines built on the content of the 2015 apartment guidance, much of which remains valid, particularly with regard to design quality

safeguards such as internal space standards for 1-, 2- and 3-bedroom apartments, floor to ceiling height, internal storage and amenity space.'

Section 1.19 states-

'...An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions.'

Section 2.4- 1) Central and/or Accessible Urban Locations

Such locations are generally suitable for small- to large-scale (will vary subject to location) and higher density development (will also vary), that may wholly comprise apartments, including:

- *Sites within walking distance (i.e. up to 15 minutes or 1,000-1,500m), of principal city centres, or significant employment locations, that may include hospitals and third-level institutions;*
- *Sites within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m) to/from high capacity urban public transport stops (such as DART or Luas); and*
- *Sites within easy walking distance (i.e. up to 5 minutes or 400-500m) to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services.*

The range of locations outlined above is not exhaustive and will require local assessment that further considers these and other relevant planning factors.

Section 2.15 states-

In accordance with Section 28 of the Planning and Development Act 2000, as amended, planning authorities must apply the standards set out as planning policy requirements in these guidelines, notwithstanding the objectives and

requirements of development plans, local area plans and SDZ planning schemes.

Specific Planning Policy Requirement 1 states-

Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).

Section 2.22 states-

‘Development Plans should provide for flexibility in respect of dwelling mix in small-scale building refurbishment and urban infill development schemes:

.....

Specific Planning Policy Requirement 2 states-

‘For all building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha:

....• For schemes of 50 or more units, SPPR 1 shall apply to the entire development;

.....

All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by case basis, having regard to the overall quality of a proposed development.

Specific Planning Policy Requirement 3 states-

Minimum Apartment Floor Areas:

- *1-bedroom apartment (2 persons) 45 sq.m*
- *2-bedroom apartment (4 persons) 73 sq.m*

Section 3.5 states-

The floor area parameters set out in SPPR 3 above shall generally apply to apartment schemes and do not apply to purpose-built and managed student housing. In relation to social housing, or purpose built housing for older people it is considered necessary that these guidelines would also make provision for a two-bedroom apartment to accommodate 3 persons. This is in line with the Quality Housing for Sustainable Communities guidance published by the Department in 2007, for application to social housing schemes.

Section 3.6- states-

Accordingly, planning authorities may also consider a two-bedroom apartment to accommodate 3 persons, with a minimum floor area of 63 square metres, in accordance with the standards set out in Quality Housing for Sustainable Communities (and reiterated here in Appendix 1). This type of unit may be particularly suited to certain social housing schemes such as sheltered housing.

Section 3.7- states-

While providing necessary variation in dwelling size, it would not be desirable that, if more generally permissible, this type of two-bedroom unit would displace the current two-bedroom four person apartment. Therefore no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three-person apartment. This is to allow for potential social housing provision further to Part V of the Planning and Development Act 2000 (as amended), or, if this type of unit is not

required to meet social housing requirements, that it would allow for an acceptable level of variation in housing type.

Section 3.8 deals with Safeguarding Higher Standards and states-

In the interests of sustainable and good quality urban development these guidelines should be applied in a way that ensures delivery of apartments not built down to a minimum standard, but that reflect a good mix of apartment sizes. Accordingly, it is a requirement that:

- a) The majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total, but are not calculable as units that exceed the minimum by at least 10%)*

Specific Planning Policy Requirement 4- Dual Aspect

In relation to the minimum number of dual aspect apartments that may be provided in any single apartment scheme, the following shall apply:

- (i) A minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate in.*
- (ii) In suburban or intermediate locations it is an objective that there shall generally be a minimum of 50% dual aspect apartments in a single scheme.*
- (iii) For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha , planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.*

Specific Planning Policy Requirement 5- Ground Floor Ceiling Height

- Ground floor apartments a minimum 2.7m, for urban infill schemes on sites of up to 0.25ha , planning authorities may exercise discretion on a case-by-case basis, subject to overall design quality.

Specific Planning Policy Requirement 6- Apartments per core

- Maximum provision of 12 apartments per core, maybe increased for urban infill schemes on sites of up to 0.25ha subject to quality.

Section 4.12

For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha , communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality.

Section 6.13

....planning applications for apartment development shall include a building lifecycle report which in turn includes an assessment of long term running and maintenance costs as they would apply on a per residential unit basis at the time of application, as well as demonstrating what measures have been specifically considered by the proposer to effectively manage and reduce costs for the benefit of residents.

6.1.3. Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG 2018); The following Specific Planning Policy Requirements is relevant-
SPPR 3A-

It is a specific planning policy requirement that where;

1. *an applicant for planning permission sets out how a development proposal complies with the criteria above; and*

2. *the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;*

then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

6.1.4. The following are also considered relevant-

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009);
- Urban Design Manual, A best practice guide (DEHLG May 2009)
- The Planning System and Flood Risk Management - Guidelines for Planning Authorities (Office of Public Works, 2009);

6.1.5. Other Guidance-

Quantitative methods for daylight assessment are detailed in the following documents:

- BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' and;
- BS 8206 Lighting for Buildings, Part 2: Code of Practice for Daylighting'.

6.2. **Regional Guidance**

6.2.1. Eastern and Midland Region Spatial and Economic Strategy (June 2019);

6.2.2. Greater Dublin Strategic Drainage Study March 2005 (Volume Two New Development)

Section 2.7- Development Near Riparian Corridors states-

- *Section 5.3 of the Environmental Management Policy recommends the following for watercourses:*
- *Planning authorities to clarify riparian rights and responsibilities in urban areas and codify with planning instruments;*

- *Planning authorities to maintain or create where possible, a 10m to 15m wide riparian buffer strip either side of all watercourses measured from top of bank;*
- *DoEHLG, OPW and local authorities to establish a working group to oversee preparation of a guide on Irish river rehabilitation and a public education programme;*
- *Local authorities to evaluate all watercourses for rehabilitation potential, particularly in conjunction with sustainable drainage measures;*
- *Local authorities to undertake pilot studies for rehabilitation/enhancement of watercourses.*

The main recommendation affecting new development policy relates to the maintenance or creation of buffer strips.

Riparian Corridors

*New development will not be permitted within a 10m to 15m wide riparian buffer strip, either side of all watercourses measured from top of bank
Redevelopment shall seek to create riparian buffer strips in conjunction with other rehabilitation/enhancement measures for watercourses*

6.3. Dublin City Development Plan 2016-2022

6.3.1. The operative development plan is the Dublin City Development Plan 2016-2022. The site is located in a ‘Sustainable Residential Neighbourhoods - Zone Z1 with a zoning objective-

‘To protect, provide and improve residential amenities’

Residential uses are listed as a permissible use in the Development Plan. Although not specifically listed, it is note that ‘Café’ uses are consistent with a uses listed as ‘Open for Consideration Uses’ in the development plan i.e. Restaurant.

6.3.2. The site is also located/zoned within a Conservation Area (Red Hatching on zoning map). -

Section 11.1.5.4- Architectural Conservation Areas and Conservation Areas

The policy mechanisms used to conserve and protect areas of special historic and architectural interest include:

- Land-use zonings:‘and the red-hatched areas shown on the zoning objective maps’.....

The policy to ensure the conservation and protection of the areas of special historic and architectural interest is as follows-

It is the Policy of Dublin City Council:

CHC4: To protect the special interest and character of all Dublin’s Conservation Areas. Development within or affecting a conservation area must contribute positively to its character and distinctiveness, and take opportunities to protect and enhance the character and appearance of the area and its setting, wherever possible.....

6.3.3. The following policies are considered particularly relevant for this application-

- Policy SI5 -

To promote the enhancement of aquatic ecosystems and, with regard to their water needs, terrestrial ecosystems and wetlands directly depending on the aquatic ecosystems.

- Policy GI15 -

To protect, maintain, and enhance the natural and organic character of the watercourses in the city, including opening up to daylight where safe and feasible. The creation and/or enhancement of riparian buffer zones will be required where possible. It is the policy of Dublin City Council to maintain and enhance the safety of the public in its use and enjoyment of the many public parks, open spaces, waterways and linkages within the city, including the River Dodder between Ringsend and Orwell (Waldron’s) bridge, and at the area known as Scully’s Field between Clonskeagh and Milltown.

- Policy GI16 -

- *To protect and improve the unique natural character and ecological value of all rivers within and forming boundaries to the administrative area of Dublin City Council, in accordance with the Eastern River Basin District management plan.*

6.3.4. The following policies are also relevant-

- Policy SI10 -To have regard to the Guidelines for Planning Authorities on the Planning System and Flood Risk Management when assessing planning applications.
- Policy SI4 - To promote and maintain the achievement of at least good status in all water bodies in the city.
- Policy SC13 promotes sustainable densities with due consideration for surrounding residential amenities.
- Policy QH5 - addressing housing shortfall through active land management;
- Policy QH6 - sustainable neighbourhoods with a variety of housing;
- Policy QH7 - promotion of sustainable urban densities;
- Policy QH8 - promote the development of vacant and under-utilised sites;
- Policy QH11 - promotion of safety and security in new developments;
- Policy QH13 - new housing should be adaptable and flexible;
- Policy QH18 - support the provision of high-quality apartments;
- Policy QH19 - promote the optimum quality and supply of apartments.

6.3.5. The following objectives are relevant-

- Objective GIO20 - To establish, where feasible, river corridors, free from development, along all significant watercourses in the city.
- Objective SIO7 - To take into consideration the relevant River Basin Management Plan and Programme of Measures when considering new development proposals.

6.3.6. Other relevant sections of the Development Plan include the following:

- Section 4.5.3 - Making a More Compact Sustainable City;
- Section 4.5.5 - The Public Realm
- Section 4.5.9 - Urban Form & Architecture;
- Section 9.5.3 - Flood Management
- Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);
- Section 16.2 - Design, Principles & Standards;
- Section 16.7 - Building Height in a Sustainable City, See also Figure.39 Building Height in Dublin Context.
 - 16.7.2 - sets out building height limits, including a 24m restriction in the Inner City. Rail hubs Up to 24m, Rail hubs are within 500 m of existing Luas.
- Section 16.10 - Standards for Residential Accommodation
 - 16.10.1 Residential Quality Standards- Apartments
- Section 16.29 - Restaurants (refers to cafes)
- Section 16.38 - Car Parking Standards (Area 2 / Zone 2 - maximum of '1 per dwelling').

6.3.7. Appendix 7- Strategic Flood Risk Assessment

The site appears to be located within Flood Zone C with lands east of the rear of the gardens to Houses No 229 & 231 within Flood Zones A & B (See Appendix 3 Site 18 P.170-173 and Map for Site 19 P 174.)

6.4. Natural Heritage Designations

6.4.1. The site is c. 7.7km west of the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024). The site is also c.11km west of the North Dublin Bay SAC (000206) and North Bull Island SPA (004006). The River

Camac runs along the eastern boundary of the site. The Camac drains to the Liffey which flows into Dublin Bay.

6.4.2. Approximately 4m of the southern boundary of the site is located within the Grand Canal pNHA.

6.5. Environmental Impact Assessment

6.5.1. Having regard to the nature and small scale of the proposed development and the sites context on a serviced brownfield site it is considered that 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.

7.0 The Appeal

7.1. Grounds of Appeal

One first party appeal was received from the applicants. The grounds of appeal can be summarised as follows:

- The appeal is accompanied by a Technical Note prepared by AECOM providing a summary of the key environmental documentation submitted with the application in order to establish that proposed development will not pose a risk to water quality and biodiversity of the Camac River and its associated riparian zone.
- The appeal is also accompanied by a letter and land registry map confirming the applicants ownership should there be any ambiguity particularly concerning the adjoining riparian corridor.
- The application is essentially the same development refused by DCC under 4416/18. The information submitted with this application addressed in detail the concerns of 4416/18. The issue at the heart of this appeal relates to if the proposal complies with Policy GI15 of the DCC Development Plan.
- The applicant was acutely aware of the environmental sensitivities and constraints within and adjacent to their landholding, and accordingly formed

the extent of the red line area in light of these. The site is purposely outside of the extent of the existing and well-established riparian habitat corridor located along the banks of the Camac River on its eastern flank.

- The proposal is set back between approx. 6.2m from the culvert beside the Luas track, 11.2m at its most northern extent and up to 17.4m at its greatest from the top of the existing slope to provide tree protection zones as well as sufficient separation from the crown spread of mature trees within the riparian corridor and to protect root structures.
- The proposal does not encroach outside the existing developed extents of the site.
- The submitted Water Framework Directive Risk Assessment Report (WFDRAR) asserts that the physical conditions of the Camac River remain largely unchanged in the vicinity of the site since the construction of the Grand Canal and the proposal will not change that. Works to existing vegetation within the Riparian Corridor bounding the west bank of the river would be limited to pruning along the boundary only.
- In terms of surface water drainage there will be no run off to the slope or to ground under the site. All SUDs will be tanked underground to prevent infiltration into existing ground and water table. A climate factor of 20% has been applied.
- The current site has hardstanding with uncontrolled runoff to the storm network. The proposal would be an improvement on the current situation.
- The application includes an Outline Construction Management Plan which includes a section on managing water quality including best practise measures during the proposed works to both the Camac and the Grand Canal.
- The Ecological Appraisal notes that although no suitable roosting features for bats were identified on trees along the Camac, they do provide suitable habitat for both foraging and commuting bats. The set back of the proposed development will maintain foraging pathways for bats.

- No protected species or scheduled invasive species were identified in the habitats found along the Camac. As the red line does not encroach on the Riparian corridor there is no significant potential for disturbance of protected species that are supported by the habitat or for disturbance of invasive species that could be detrimental biodiversity within or downstream of the area.
- The red line was purposefully developed outside of the existing riparian zone and the proposal demonstrably serves to protect, maintain and enhance the natural and organic character of the watercourse and complies with Policy GI15 of the Development Plan.
- The submitted WFDRAR acknowledges that there must not be any overall deterioration in water quality or ecological status of any waterbody. The proposal changes nothing in terms of the current condition of the Camac other than a more sustainable management of surface water run-off. It would not cause a deterioration of the water body.
- The details submitted as part of the application confirm there will be no impact on the Camac River and therefore the proposal will not impact on the requirements of Policy SI15 of the Development Plan and is in compliance with same.
- The WFDRAR and the Ecological Technical Note submitted with the application confirm the impacts from the development including basement are anticipated on water quality or biodiversity of the Camac River. There will be no works outside the site and the existing woodland offer a buffer from the site to the river. The proposal complies with Policy GI15.
- It appears the decision to refuse hinges on the proposed development impacting on future opportunities to protect and enhance the riparian zone and hence the hydromorphological condition of the Camac River. These future opportunities were not made known to the applicants at any stage of the application.
- It is a requirement of the Development Plan to be cognisant of the Greater Dublin Strategic Drainage Study when determining development proposals

including section 5.3 dealing with Environmental Management Policy. The proposal purposefully avoids encroachment within the existing riparian buffer thus preserving its wild state. It was not determined the proposal specifically required the creation of a riparian buffer strip as a mature well established strip already exists and is up to 15m wide in the vicinity of the site.

- There is currently no approved rehabilitation plan for the Camac and as such the proposal is in accordance with relevant guiding planning documentation. The setting of the red line is the key design measure to protect maintain and enhance the natural and organic character of the watercourse. The creation of a riparian buffer zone in this instance is not required as it already exists.
- The conclusions of the WFDRAR demonstrate there will be no impact on the Camac River ensuring compliance with Policy GI16. All construction works are to be contained on site with no instream works or emissions produced. All impacts on water quality on protected sites can be dismissed. No Annex I habitats were identified along the Camac. The appropriate assessment screening report was accepted by the Planning Authority.
- Any suggestion to works to the riparian zone are incorrect. The vegetation that forms the habitat corridor along the banks of the Camac will be retained- there are no proposals to alter same. The developable area of the site will be set back to facilitate crown spread of mature trees so there would be no obvious risk of root structure damage. The only maintenance suggested is pruning of trees / overhang.
- The WFDRAR confirms that the proposal will have no hydromorphological impact upon the condition of the Camac. There is no ambiguity in the detail submitted regarding this issue.
- There is c. 7m difference between the current and proposed building lines in terms of proximity to the ridgeline. There is no Development Plan standard in relation to required set back. The proposal will increase the building foot print but will not increase the area of hardstanding as the entire site is developed and offers no existing value from a riparian corridor context.

- The WFDRAR was completed by a Chartered Water and Environment Manager with the Chartered Institution of Water and Environmental Management (CIWEM), a Chartered Environmentalist with the Society of the Environment (SocEnv) and a Chartered Scientist with the Science Council, with over 16 years' experience in environmental consultancy.
- The design of the proposal has been deemed acceptable by the Planning Authority. The proposal represents an appropriate design response to the sites context. The site offers nothing in terms of efficient land use and is an underutilised brownfield site.
- The application adequately addresses flood risk in accordance with the Flood Risk Guidelines 2009. A Site Specific Flood Risk Assessment has been submitted.

7.2. Planning Authority Response

The Planning Authority have submitted a response from their Water Framework Directive Office (WFDO). Their response to the grounds of appeal can be summarised as follows:

- DCC has no objections to the principle of the site being redeveloped and recognises its current dilapidated state. However, the ecological sensitivity of its location must also be acknowledged and any redevelopment needs to be-
 - Ecologically appropriate in terms of design mass and scale
 - Respond to the ecological sensitivities of adjacent land uses
 - Respects and response to the clear policy requirement to enhance and improve watercourses.
- The current proposal does not demonstrably deliver on these. Instead it appears to maximise the built footprint and encroach on the sensitive ecological receptors.
- The Grand Canal and River Camac support valued habitat and function as important corridors for a number of protected and notable species

- The three main pressures on the Camac Lowe Catchment (currently at poor status) are hydromorphology, wastewater and urban run-off. Adjacent land uses have a direct impact on a rivers Water Framework Directive status.
- DCC's Development Plan includes Policies which reflect 'New Development Policy' within the Greater Dublin Strategic Drainage Strategy. These include GI15 and GI16.
- It is considered the proposal brings new development closer and in higher density to the River Camac, close to its intersection with the Grand Canal. The proposal makes no attempt to either "*enhance*" or "*improve*" the Canal or the Camac. The policy to enhance or improve is not optional and are clear and unambiguous.
- Following a request for FI DCC found the WFDRAR to be inadequate. It failed to address Development Plan objectives relating to ecology and green infrastructure, or address hydromorphological impacts of the proposal. The applicant did not avail of the opportunity to get input from the WFDO into the development design as requested in the FI.
- A Camac River Restoration Strategy will be available in early 2021 and in the interim the WFDO must employ existing policies to protect the river corridor from negative impacts and preserve opportunities for future restoration, improvement and enhancement measures.
- The Camac River Alleviation Scheme is also underway. It is considered protection and enhancement of flood plains and riparian zones combined with river restoration measures can offer a suite of sustainable (nature-based) flood control benefits and climate change adaptation measures in urban areas e.g. river widening where it has been artificially narrowed and regrading of river banks to a more natural form. Such interventions are required under the Water Framework Directive. Opportunities for such interventions must be preserved.
- Extending the building line into the Camac River Corridor as proposed would constitute a new and additional hydromorphological impact on the river at this

key location, potentially impacting on local ecology and would limit future river rehabilitation efforts.

- To avoid further degradation of the physical condition of the river and to preserve future opportunities to rehabilitate the river, future redevelopment of this site should be required to comply with the current policy that require a minimum setback from the top of the riverbank of 10m.
- The potential exists, with the appropriate supports, for the ecology of the canal, and the diversity of species it supports along its linear habitats (including Annex II of the EU Habitats Directive species Otter and White-clawed Crayfish, Bat species and also flora and fauna of local importance) to extend further into the city as habitat fragmentation is addressed.
- The treatment of the intersection between the Canal and the Camac could prove of key importance in the achievement of DCC's green infrastructure objectives in supporting biodiversity and currently fragmented habitats, the connection of blue-green corridors and improving water retention.
- DCC's WFDO has established a project team for the Camac River in recognition of the fact that the challenges this waterbody currently at Poor status, must overcome to achieve a 'good' status. The EPA has recommended the Camac River for inclusion as a *'priority catchment project'* for the third cycle River Basin Management Cycle (2022-2027).
- A full catchment Camac River Restoration Strategy is underway. It has been established from numerous baseline studies including a Hydromorphological Assessment of the entire river. DCC's own studies have confirmed the area of the appeal site constitutes an especially important habitat in this urban area. Recent aquatic surveys have identified salmon and trout in this specific area. This appears to be the first time salmon has been found in the Camac in living memory.
- Current DCC policy on the protection and enhancement of riparian corridors dates back to 2005 and is set out in the Greater Dublin Strategic Drainage Study (GDSDS) Policy Document relating to New Development'. Section 2.7 deals with Development Near Riparian Corridors and states-

- *Planning Authorities to maintain or create where possible, a 10m to 15m wide riparian buffer strip either side of all watercourses measured from top of bank;*

- DCC's Development Plan 2016-22 sets out policy to reflect the 'New Development Policy' including Policy GI15, GI16 and SI5. Other Objectives are also relevant e.g. GIO20 and SIO7.
- DCC's finding is that the applicants have failed to demonstrate compliance with the spirit or detail of these Development Plan objectives. That is the basis for the refusal of permission.
- The existing building line of Blackhorse Inn is set back from the top of the riverbank by approximately 10m. The riparian setback is less than 10m at the rear of the semi-detached houses but the riverbank is less steep. In the proposed application the set back is to be reduced from almost 10m to less than 3m in the south eastern corner of the site which is where the side slope is at its most steep. A proposed section drawing to this area was not provided as part of this application but is shown in the previous application 4416/18.
- The difficulties created by this increased proximity include-
 - Increased noise, lighting and disturbance impact on the riparian corridor
 - Inevitable pressure in the future to cutback trees to reduce impacts on residents
 - Significant construction works in very close proximity to the embankment (including basement construction).
 - Excavations in the narrow strip for laying of surface water and foul drains potentially causing disturbance to established vegetation supporting the stability of steep side slopes.
 - Removes potential for access to the river corridor for maintenance purposes
 - Removes potential for any future riverside movement corridor
- The proposed landscaping plan does not address the River Camac, the riverbank or the riparian corridor. It does not recognise how urbanising

pressures will be managed e.g. litter picking, avoiding the need for adjacent trees to be managed more intensively in the future, lighting of the public realm and the built development itself.

- The applicants WFDRAR proposes no rationale of the proposals departure from the stated policy of 10-15m from the top of the riverbank. It does not address the increased proximity of proposal to the river and its habitats, terrestrial and aquatic. There is no assessment of hydromorphology reported in the document, neither a desktop assessment nor an onsite riparian habitat survey using any of the established techniques.
- It is the opinion of the WFDO of DCC that the proposal constitutes a risk to the pursuit of good status for the Camac under the WFD.
- Greater weight need to be given in the design concept to the Development Plan policies relating to the WFD, green infrastructure and sustainable infrastructure. In particular greater separation distance between the riverbank and the new development is required. A minimum setback of 10m measured from the top of the existing bank and up to 15m where reasonably possible is required.
- The submission includes recent ecological survey results (electrofishing) including photographs of fish caught.

7.3. Observations

One observations was received from Inland Fisheries Ireland. The issues raised can be summarised as follows

- The Camac River is a recognised salmonid system under significant ecological pressure as a result of its largely urban situation. Lengths of remaining river on the surface invariably support self-sustaining populations of brown trout. The river also supports populations of Freshwater Crayfish and Lamprey species listed under Annex II of the EU Habitats Directive.
- The Grand Canal represents an important ecological resource and should not be impacted negatively.

- There can be no direct pumping of contaminated water from the works to the River Camac at any time. Any dewatering must be treated by either infiltration over land or to a suitably sized and sited settlement pond. Mitigation measures must be in place to prevent any deleterious material entering the river. IFI have concerns regarding the size of the site and necessary space needed to implement effective settlement areas.
- Dewatering of ground water during excavation of basement area must be pumped overland or into an attenuation area before discharge to watercourse. Restricted sites have difficulty in controlling sediment run off.
- Silt traps and oil interceptors should be maintained during construction and operational phase.
- The Ringsend WWTP is working beyond its design capacity and won't be upgraded to 2023. Local infrastructure capacity must be available to cope with increased surface and foul water.
- All discharge must be in compliance with the European Communities Surface Water Regulations 2009 and the European Communities (Groundwater) Regulations 2010.

8.0 **Assessment**

8.1. **Introduction**

- 8.1.1. I have examined the application details and all other documentation on file, including the submissions received in relation to the appeal. I have inspected the site and have had regard to relevant local/regional/national policies and in particular Ministerial Guidelines setting Specific Planning Policy Requirements (SPPR).
- 8.1.2. I consider the substantive issues arising from the grounds of appeal and in the assessment of the appeal, relate to the following-
- Zoning and Principle of the Development,
 - DCC's Refusal Reason

- Apartment Standards
- Building Height, Scale & Design
- Flood Risk
- Other Matters

8.2. Zoning and Principle of the Development

- 8.2.1. 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*', where residential uses are a permissible use and a café use is consistent with open for consideration uses. Accordingly, I am satisfied the provision of 56 apartments and a café on the site accords with the land-use zoning.
- 8.2.2. Part of the site is also located within a designated red hatched Conservation Area of the Development Plan which generally relates to the sites proximity to the Grand Canal. The application involves redevelopment of an underutilised brownfield site and accordingly contributes positively to its character and distinctiveness. The proposal also seeks to take opportunities to protect and enhance the character and appearance of the overall area and its setting along the Canal. I am satisfied the development as proposed would not impact negatively on the Conservation status of the area.

8.3. Risk to Water Quality and Biodiversity of the River Camac

- 8.3.1. The Planning Authority have recommended refusal of the proposed development for one reason. They contend that the applicants have failed to demonstrate that the proposed development would not pose a risk to the water quality and biodiversity of the Camac River and would be contrary to Policy GI15 of the Dublin City Development Plan 2016-2022.
- 8.3.2. The application site appears to extend around the existing area of hard standing that forms the site of the existing Blackhorse Pub and the rear private amenity spaces of Houses No. 229 and 231 Tyrconnell Road. The Site Location Map Drawing-

D.1706.P0.1 clearly shows the extent of the application site. This drawing would suggest the applicant has no interest in other adjoining lands.

- 8.3.3. In their appeal submission, the applicants have provided a solicitors letter and land registry compliant map showing the applicants ownership of lands that include much of the riparian zone along the River Camac. This map suggests the applicants do not own house number 229 and the space to its rear along the Riparian Zone. The Board should be aware that in question 7 of the application form the applicants have indicated they are the Freehold - Owner of the entire site formed by the red line.
- 8.3.4. The grounds of the appeal largely focuses on the extent of the red line boundary and the absence of any works outside of same. The appellant indicates they were acutely aware of the environmental sensitivities and constraints and formed the red line on this basis which is outside of the well established riparian zone. The proposed development will not encroach outside the existing developed and hard surfaced area. The development will also be set back sufficiently to ensure sufficient separation from the crown spread of mature trees within the riparian corridor so there will be no risk to root structures and biodiversity. Vegetation that form the riparian habitat corridor is to be retained.
- 8.3.5. Having visited and inspected the site, I am satisfied the area of existing hardstanding includes lands directly along the eastern site boundary. This boundary is enclosed by a c.1.8m high metal fencing east of the public house and with a concrete post and wooden fence to the rear of the houses No. 229 and 231. I am satisfied the site is clearly demarcated from the existing riparian zone.
- 8.3.6. Having considered the Planning Authority's position, including the reports of the Drainage Division on the requested further information and DCC's Water Framework Directive Office (WFDO) response to the first party appeal, it appears the main concerns for assessment can be summarised as-
- The proposal does not provide for a riparian strip buffer zone in accordance with section 2.7 of the Greater Dublin Strategic Drainage Study (GDSDS),
 - Hydromorphological risks from the proposed development (including groundwater infiltration)

- The new building will be closer and higher than existing buildings to the Camac River, leading to increased noise, lighting, littering and disturbance impact on the riparian corridor,
- There is potential, for the ecology of the canal, and the diversity of species it supports (including Annex II species) to extend further into the city as habitat fragmentation is addressed and
- As a result, there is risk to the water quality and biodiversity of the Camac River.

8.3.7. Section 2.7 of the GDSDS recommends Planning Authorities maintain or create where possible, a 10m to 15m wide riparian buffer strip either side of all watercourses measured from top of bank. This recommendation clearly relates to new developments. In terms of 'Redevelopment' this section of the GDSDS states *'Redevelopment shall seek to create riparian buffer strips in conjunction with other rehabilitation/enhancement measures for watercourses'*.

8.3.8. The proposed development is clearly redevelopment of an existing hard surfaced brownfield site which is in private ownership. In my opinion, in this context, it is not reasonable to require a 10m to 15m wide riparian buffer strip from the top of bank along the River Camac, or to seek an even smaller strip in addition to the existing riparian zone. It is however appropriate to demarcate and subsequently protect the existing riparian zone from the application site.

8.3.9. The applicants do not propose any works in the existing Riparian Zone and have set the new buildings back from the boundaries so as to avoid encroaching on the root zones of trees. Pruning of branches from trees with the riparian zone and overhanging the site are proposed and this is considered acceptable. Section 6.5.2 of the Outline Construction Environmental Management Plan (OCEMP) sets out measures for 'Fencing/Buffer Zones, Compounds and Storage of Materials'. These measures appear robust and reasonable in this context to protect the Riparian Zone during development works.

8.3.10. The application proposes a 'Butt Wall & Railing' 1.8m high along the eastern boundary of the site and this is considered appropriate to protect private amenity spaces and in terms of demarcating the boundary of the site to the riparian zone. However, as this boundary treatment will require a foundation, and should the Board

grant permission, I recommend a condition be applied requiring details of the foundations along the eastern boundary to be submitted for the written agreement of the planning authority. The foundation should be entirely within the site and not encroach upon the existing riparian zone.

- 8.3.11. Overall, and subject to the measures outlined in the OCEMP and appropriate planning conditions, it is my opinion that the development as proposed is in accordance with the 'Redevelopment' requirement of section 2.7 of the GDSDS - Development near Riparian Corridors.
- 8.3.12. The Planning Authority's response to the appeal raises Hydromorphological concerns (including groundwater infiltration) and in particular risks from bringing the proposed development closer to the existing river bank, increasing urbanisation pressures.
- 8.3.13. The existing buildings on site are identified in the Existing Site Survey & Site Location Map D.1706.P0.1 as ranging from 3.8m and 9.1m from the eastern site boundary and adjoining riparian zone. The two dwellings to the north are identified in drawing D.1706.P0.17 as 9.1m high. The public house building is part two and part single storey ranging in height from c. 6m to c.4m.
- 8.3.14. The proposed development is a significantly larger building in footprint and height. It will range from 2.3m to 5.2m from the eastern site boundary and existing riparian zone. It will also range in height from c.11m at its northern end to 24m at its southern end.
- 8.3.15. The visual impact and overall physical presence of the of the development to the Riparian Zone and the River Camac is not questioned. However, the site is an existing underutilised brownfield site, is on zoned lands where residential development and higher densities are acceptable and encouraged. The height of the proposal also meets Dublin City Development Plan standards and accordingly intensifying the use of the site and its accompanying urban pressures are to be expected and encouraged, subject to management in accordance with proper planning and sustainable development.
- 8.3.16. In this context I do not consider the proposed development when operational will lead to increased noise, lighting, littering and other disturbance impacts on the riparian corridor to any significant extent that warrants refusing the development.

Lighting along the eastern boundary of the development will be for residential purposes only with no public/communal lighting required. Lighting to private terraces and balconies can be conditioned to cowl away from the riparian zone.

- 8.3.17. While I accept some of impacts are inevitable during the construction stage I consider these can generally be managed by way of condition i.e. operating hours and submission of Construction Management Plan.
- 8.3.18. The existing site is entirely hard surfaced around existing buildings. Existing surface water appears to drain to a nearby combined sewer. Notwithstanding this, it is considered that existing surface water runoff on the site is unlikely to be controlled in the most sustainable way. The Engineering Services Report accompanying the application proposes Sustainable Urban Drainage Systems to manage stormwater including permeable paving, attenuation (allowing for climate change) and petrol interceptors. Site discharge is to accord with the GDSDS requirements and will be to the public sewer which will drain to the Ringsend Wastewater Treatment Plant. In my opinion the proposed works would appear to be an improvement on the existing situation and I do not consider the proposed development will lead to groundwater infiltration or other hydromorphological risks to the River Camac.
- 8.3.19. I note the Planning Authority's response to the appeal highlights potential, for the ecology of the canal, and the diversity of species it supports (including Annex II species to extend further into the city as habitat fragmentation is addressed. Notwithstanding section 8.9 of this assessment in relation to Appropriate Assessment, I do not consider the proposed development of an existing brownfield site in this context will have any significant impact on habitat fragmentation.
- 8.3.20. Having regard to all of the above, I consider, the development as proposed (including the Pollution Control measures outlined in section 5.7 of the OCEMP) is not likely to pose a risk to water quality and biodiversity of the Camac River and is therefore not contrary to Policy GI15 of the Dublin City Development Plan 2016-2022. In my opinion refusing planning permission on these grounds is not warranted.

8.4. Apartment Standards (New Issue)

- 8.4.1. The Planning Authority have raised no concerns in relation to the proposed apartment standards which they have assessed against the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2018 (DoHPLG). Since the Planning Authority's decision, it is noted these guidelines were updated in December 2020 by the DHLGH and will form the basis of this assessment.
- 8.4.2. For the purpose of the Guidelines and this assessment, the proposal is considered to be a 'Urban Infill Scheme' on a site of 0.16ha and is located within a 'Central and/or Accessible Urban Location' as described in section 2.4 of the Guidelines. The applicants have also clearly stated that the proposed development is not a 'Build to Rent' scheme. The proposed development will therefore be assessed against the following Specific Planning Policy Requirements- SPPR 1, 2, 3, 4, 5, and 6.
- 8.4.3. SPPR 1 and 2

SPPR 1 details Housing developments¹ 'may' include up to 50% one-bedroom or studio type units. I acknowledge the use of the word 'may' in SPPR 1 creates a degree of ambiguity. However, SPPR 2 provides clarity in how SPPR 1 should be interpreted.

SPPR 2 includes 3 bullet points. It is clear that the second bullet point (relating to proposals for 10-49 units) is directly influenced by the first bullet point (relating to proposals for up to 9 units) i.e. the flexible dwelling mix may be carried forward for the first 9 units in the second bullet point.

The third bullet point of SPPR 2 is relevant to the subject application. It clearly details for schemes of 50 or more units, 'SPPR 1 shall apply to the entire development'.

I see no reason why the logic of the first bullet point influencing the second bullet point should not apply to the second bullet point influencing the third bullet point. I specifically refer to footnote 7² on page 10 of the apartment guidelines that interprets

¹ This has changed from the 2018 Apartment Guidelines where that wording specifically stated 'Apartment developments'

² Footnote 7 on page 10 of the guidelines states- "i.e. the 10th and at least every second unit thereafter must comprise a two or more bedroom apartment. This means, for example, that a scheme of 30 units must have a minimum of 11 two or more bedroom units and may have up to 19 studio or one-bed units, of which no more than 9 may be studios."

the second bullet point. I now reword this footnote for the purposes of interpreting bullet point 3 and apartment schemes of 50 or more units as follows-

At least every second unit must comprise a two or more bedroom apartment. This means, for example that a scheme of 56 units must have a minimum of 28 two or more bedroom units and may have up to 28 studio or one-bed units, of which no more than 14 may be studios.

Or in the case of the subject application the scheme must have at least 28 two or more bedroom units and no more than 28 one-bed units in order to comply with SPPR 1 and 2. The proposed development is for 37 one bed room apartments and 19 two bed apartments. The application therefore proposes c. 66% one bedroom apartments and c.33% two bed room apartments and does not appear to comply with the mandatory requirements of SPPR 1 and SPPR 2.

However, SPPR 2³ concludes with the following paragraph-

'All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development.'

The site's prominent 'Central and/or Accessible Urban Location' and Z1 - residential zoning as set out in the Development Plan are clearly significant considerations. As is the undoubted need for this site to be redeveloped. Dublin's housing crisis is also acknowledged.

However, SPPR 2 only allows for discretion to be exercised having regard to the 'overall quality' of a proposed development. Section 1.3 of the guidelines refers to 'design quality safeguards' for the purpose of the Guidelines. This section describes these as- internal space standards for 1-, 2- and 3-bedroom apartments, floor to ceiling height, internal storage and amenity space. In order to determine the 'overall quality' of the proposed scheme I will have significant regard to these safeguards in

³ This 2020 Apartment Guidelines has removed the blue box around SPPR2 in the 2018 guidelines. SPPR 2 now appears to include for the text to exercise discretion by way of the text now being in bold font like the remainder of SPPR 2.

terms of exercising discretion and if the proposal complies with SPPR 1 and SPPR 2.

8.4.4. SPPR 3

This requirement sets out minimum requirements for apartment floor areas and in particular requires 45 sq.m for 1-bedroom apartment (2 persons) and 73 sq.m for 2-bedroom apartment (4 persons) 73 sq.m.

Appendix 1 of the Guidelines details '*Required Minimum Floor Areas and Standards*' and details the Minimum Floor area for two bedroom 3 person apartments to be 63 sq.m. A single asterisk notes this refers to the 1995 guidelines. A double asterisk states this is-

'Permissible in limited circumstances'.

Section 3.7 of the Guidelines states-

'...no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three-person apartment....'

In section 2.6 of the cover letter accompanying the application the applicants details the provision of 8 no. 2-bedroom, 3 person apartments, all of which exceed 63 sq.m with the smallest being 64.04 sq.m. 8 such apartments equates to c.14.3% of the overall provision. I acknowledge the Part V proposal letter submitted with the application details that approximately 6 units will be transferred to DCC. The accompanying schedule suggests this will be made up of 5 no. 1-bedroom apartments and 1 no. 2- bedroom apartment of 75.3 sq.m. Notwithstanding this, the provision of 14.3% or 8 No. 2-bedroom 3 person apartments does not provide an acceptable level of variation in housing type as per section 3.7 of the guidelines.

In my opinion the provision of 8 No. 2- bedroom, 3 person apartments does not comply with SPPR 3, section 3.7 and Appendix 1 of the Guidelines.

As noted previously SPPR 2 allows for discretion to be exercised having regard to the overall quality of a proposed development. The provision of 8 No. 3 person 2-

bedroom apartments does not comply with section 3.7 of the guidelines and will impact on the overall quality of the development in terms of the required minimum floor areas and an acceptable variation in housing type.

8.4.5. Section 3.8- Safeguarding Higher Standards

Section 3.8 of the Guidelines is titled 'Safeguarding Higher Standards' and seeks to ensure delivery of apartments that are not built down to a minimum standard, but that reflect a good mix of apartment sizes. Accordingly, it is a stated requirement of the Guidelines that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1 or 2-bedroom unit types, by a minimum of 10%. In my opinion the provision of this excess will be a significant contributory factor to the 'overall quality' of this urban infill scheme and in particular in terms of the quality of residential amenity for the residents of the 56 apartments.

In accordance with the example provided in section 3.9 of the Guidelines I have calculated the 'Cumulative Min Floor Area' for 37 one bed and 19 two bed apartments to be- 3,052 sq. The 'Total Required Minimum Floor Area would be $3052+305.2= 3,357.20$ sq.m. Therefore 305.2 sq.m of additional floor space is required and needs to be allocated to at least the majority of the apartments i.e. 29 units.

In the Cover Letter accompanying the application, the applicants detail that the average floor area of-

- one bedroom apartment is 48.35 sq.m. which exceeds the minimum standards by 7.5%.
- two bedroom apartments is 74 sq.m which exceeds the minimum standard by 1.5%.

Appendix A of the Cover Letter accompanying the application titled 'Quality Housing Assessment' and sets out a 'Schedule of Residential Accommodation'. I have examined the proposed floor area for each apartment and in particular the proposed 8 no. 2-bedroom, 3 person units. I find that-

- only 9 out of 37 one bedroom apartments exceed the minimum 10% excess floor area requirement of 49.5 sq.m.
- Only 2 out of 19 two bedroom apartments exceed the minimum 10% excess floor area requirement of 80.3 sq.m.
- Only 11 apartments of the total of 56 exceed the 10% additional floorspace requirement.

Furthermore, I have calculated the proposed additional floor space to be c. 197.36 sq.m and this does not include a deduction of floor space from 73 sq.m for 2-bed 3 person apartments where the applicants have provided to the 63 sq.m standard. I have included for such 2- bed 3 person apartments that exceed the required 73 sq.m of which there are two. In my opinion the proposed development fails to provide the 10% 'Total Required Minimum floor area' of 305.2 sq.m.

I refer to section 3.12 of the Guidelines which details the requirement may be applied differently for schemes of 10 up to 99 units. In this instance the minimum 10% may be redistributed throughout the scheme to allow for flexibility. However as noted previously the application fails to provide the 'Total Required Minimum floor area' of 305.2 sq.m and how that is allocated in the context of section 3.12 is not therefore applicable.

It is clear that the majority of all apartments i.e. 29 apartments of any combination of one and/or two bedrooms do not exceed the minimum floor area standard by a minimum of 10%. This 'safeguard' as detailed in section 1.3 and 'requirement' as set out in section 3.8 of the guidelines is in the interests of sustainable and good quality urban development and in order to deliver apartments not built down to a minimum standard, but that reflect a good mix of apartment sizes.

In my opinion, the proposed development does not comply with the requirements of section 3.8 of the Guidelines. Achieving this requirement would be a significant contributing factor in achieving a high overall quality in order to exercise discretion as per SPPR 2, particularly for the residents of the apartments. Accordingly, I do not consider the quality of the overall scheme as sufficient to exercise discretion in

relation to SPPR 1, 2, 3 and the stated requirement of section 3.8 to Safeguard Higher Standards.

8.4.6. SPPR 4

This SPPR requires a minimum of 33% of dual aspect units in central and accessible urban locations. It also details for urban infill schemes planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than 33%.

The applicants have indicated they are proposing 43% dual aspect apartment which equates to 24 apartments. They also indicate the majority of single aspect units to be south facing i.e. 26 or 81% of the single aspect units.

Having examined the drawings submitted with the application I note 28 apartments appear to have dual aspects and 28 appear to have a single aspect. Of the single aspect apartments 26 have windows and balconies facing south, and two have windows and a balcony facing west onto Tyrconnell Road.

I am satisfied the proposed development complies with SPPR 4.

8.4.7. SPPR 5

This SPPR requires ground level apartments to have floor to ceiling heights of a minimum of 2.7m. There appears to be only one section drawing submitted with the application (D.1706.P0.16) and this is through the block along the southern boundary of the application site and apartment 7 at ground floor. This drawing appears to show a floor to ceiling height of 3.3m which would comply with SPPR 5. Drawings D.1706.P0.21 also provides a section through the proposed café and suggests a floor to ceiling height of c. 4.3m.

In the absence of further drawings to confirm floor to ceiling heights and should the Board be minded to grant permission for this development I suggest a condition be applied to ensure all ground to floor ceiling heights comply with the requirements of the 2020 Apartment Guidelines.

8.4.8. SPPR 6

This SPPR requires a maximum of 12 apartments per floor per core may be provided in apartment schemes. The proposed development provides for six upper floors with two cores and a maximum 10 apartments across a floor.

I am satisfied the proposed development complies with SPPR 6.

8.4.9. Other Requirements

The apartment guidelines sets out a number of other requirements. Having regard to section 1.3 of the guidelines and in order to determine 'overall quality' in accordance with SPPR 2 the following are considered most pertinent-

- Internal Storage (Section 3.30) - Having regard to the Quality Housing Assessment, Schedule of Proposed Residential Accommodation submitted with the application, the proposed development appears to provide at least-
 - 3 sq.m of storage space for the one bedroom apartments.
 - 5 sq.m of storage space for the two bedroom 3 person apartments and
 - 6 sq.m of storage space for the two bedroom 4 person apartments.

Notwithstanding the provision of 8 no. 2-bedroom 3 person apartments (which does not comply with SPPR 3, the proposed development appears to comply with Internal Storage requirements. However, in order to determine quality (for the purposes of exercising discretion in SPPR 2), it is considered that the stated provision rarely exceeds the minimum requirement and not by a significant extent.

- Private Amenity Space (Section 3.35)- Having regard to the Schedule of Proposed Residential Accommodation submitted with the application, the proposed development appears to provide at least-
 - 5 sq.m of private amenity space for the one bedroom apartments.
 - 6 sq.m of private amenity space for the two bedroom 3 person apartments and
 - 7 sq.m of storage space for the two bedroom 4 person apartments.

Notwithstanding the provision of 8 no. 2-bedroom 3 person apartments (which does not comply with SPPR 3) the proposed development appears to comply with private amenity space requirements. However, in order to determine quality (for the purposes of exercising discretion in SPPR 2), it is considered that the stated provision rarely exceeds the minimum requirement. It is noted apartments 4 and 5 have been provided with considerable terrace areas.

- Communal Amenity Space (Section 4.10)

The application does not propose any dedicated communal amenity space. In section 6.7 of the applicants cover letter it refers to 'public open space' and section 16.10.3 of the DCC Development Plan where financial contributions may be proposed towards the provision and enhancement of open space and landscape in the locality. The applicants consider the application of a financial contribution in lieu of open space on the site to be the most appropriate proposition and request same to be considered. This is noted in DCC's Planners Report.

The requirements for communal open space are set out in the Apartment Guidelines as 5 sq.m for one bedroom apartments and 7 sq.m for two bedroom apartments. The overall requirement for the application site would be c. 318 sq.m. The site is considered an urban infill scheme on a site of 0.16 ha. Section 4.10 of the Guidelines states communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality. The site is located very close to the Lansdowne Valley Park and the Grand Canal. I consider the non provision of communal amenity space in this instance as acceptable.

However, in order to determine quality (for the purposes of exercising discretion in SPPR 2) I would generally expect to consider some element of communal amenity space for the exclusive use of the residents of the apartment scheme or increased private amenity space. I do not consider the space between Tyrconnell Road and the front of the proposed building, which is open to the public, to be communal amenity space.

- Building Lifecycle Report (Section 6.13)

Although not especially related to 'overall quality' it is a requirement of the apartment guidelines that such proposals shall include a building lifecycle report. This is to include an assessment of the long term running and maintenance costs of the development and would clearly be for the benefit of future apartment owners and residents. This does not appear to have been submitted.

8.4.10. Conclusion

The site is located in area that can be described as a Central and/or Accessible Urban Location and the development proposed is considered an Urban Infill Scheme on a site of up to 0.25ha, both in accordance with the 2020 Apartment Guidelines. The applicants have clearly indicated the proposal is not a Build to Rent Scheme and the proximity of the site to the Blackhorse Luas stop is in particular noted.

The proposal is for the redevelopment of an underutilised brownfield site clearly in need of regeneration. It will provide 56 apartments and a café which are uses both consistent with the Z1 zoning objective for the site. Dublin City Council have deemed the proposal acceptable in the context of the 2018 Apartment Guidelines (now superseded by the 2020 Guidelines).

In accordance with Section 28 1 (c) of the Planning and Development Act, 2000-20 (as amended) and Section 1.19 of the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, December 2020', I consider the proposed development does not comply with SPPR 1, 2 and 3 of the 2020 Apartment Guidelines. In particular, I understand the provision of 14.3% or 8 No. 2-bedroom 3 person apartments as not permissible as set in section 3.7 of the Guidelines. Furthermore, in my view the proposed development does not comply with section 3.8 of the same guidelines in terms of Safeguarding Higher Standards.

I accept SPPR 2 allows for discretion to be exercised on all standards in the guidance on a case-by-case basis, having regard to the overall quality of the proposed development. In my opinion the proposed development lacks quality in terms of-

- Housing/Apartment Mix- the excessive percentage of one bedroom apartments,
- the provision of 14.3% or 8 no. 2-bed 3 person apartments (the guidelines provides for no more than 10%),
- therefore, the non-compliance with Minimum Floor Areas for all proposed 2-bedroom apartments, and
- the non-provision of a minimum 10% extra floor area (i.e. 305.2 sq.m) to the majority of all apartments.

Having considered section 1.3 of the Guidelines I also note the proposed development does not provide significantly excess space in terms of internal storage and private amenity space for most apartments. It also does not provide any communal open space for the overall development (notwithstanding the proximity of public amenities to the site). In my view the proposal is built down to minimum standards in many criteria pertinent to 'overall' quality.

Considering all of the above, the proposed development does not provide sufficient 'overall quality' to warrant exercising discretion in accordance with SPPR 2.

I have given consideration to addressing these matters by way of condition e.g. the omission of 3 No. 2-bedroom 3 person apartments to bring the provision to no more than 10% of the overall scheme. However, it is my view that such amendments on their own, would not be sufficient to adequately provide additional floorspace to the majority of all apartments in accordance with section 3.8 of the Guidelines, and could not be specified precisely by condition. I do, however consider there to be scope for these matters to be addressed through revised proposals in accordance with section 132 of the Planning and Development Act 2000-20 (as amended) should the Board consider it appropriate.

However, based on the application as submitted, the proposed development should, in my opinion, be refused. The Board are advised that this is a **new issue** and the Bord may wish to seek the views of the parties on these matters.

8.5. Building Height & Design

- 8.5.1. The Planning Authority have raised no concerns in relation to the height and design of the proposed development. They refer to the existing development permitted under PL29S.210479 for a 9 storey building 30 metres high and how this has set a precedent for taller type structures in this area.
- 8.5.2. The general area can be characterised as largely residential with two storey houses to the north of the site and a part three storey houses opposite the site. The proposed development is for a part 3 to part 7 storey building increasing in height from north to south along Tyrconnell Road and opposite Jamestown Road thereby creating a transition from the predominant two storey style development to the north towards the canal and the 9 storey building c.70 metres south west of the site on the opposite side of the Road.
- 8.5.3. Section 16.7.2 of the Development Plan deals with 'Height Limits and Areas for Low-Rise, Mid- Rise and Taller Development'. This section and Figure 39 'Building Height in Dublin Context' identifies a 24m height restriction in the Inner City and within 500m of 'Rail Hubs'. The existing Blackhorse Luas stop is c. 40 metres from the site.
- 8.5.4. Notwithstanding the Development Plan, the 'Urban Development and Building Heights Guidelines for Planning Authorities (2018)' detail that a criteria-based assessment should be undertaken in accordance with these guidelines when considering proposed tall buildings. According to section 2.3 of these Guidelines, building-up urban infill sites is required to meet the needs of a growing population and '*increased building height is a significant component in making optimal use of the capacity of sites in urban areas*'. Section 3.1 of these Guidelines states-

'it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility'.

Given this site's proximity to the city centre and to the Luas line, I consider the site to be an appropriate location for a building of increased height.

8.5.5. Section 3.2 of these Guidelines sets out Development Management Criteria and include the scale of the relevant neighbourhood and street and also the scale of the site/building itself.

8.5.6. The scale of the relevant city/town

- As already noted the site is very close to the Blackhorse Luas line. The site is also located c. 75m south of a Dublin Bus Stop which the applicants have indicated are served by the No.'s 13, 68 and 69 services. In accordance with the guidelines, I am satisfied the site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.
- The southern part of the site is located within a Conservation Area as identified in the DCC Development Plan. This Conservation status reflects the sites proximity to the Grand Canal. The Urban Design Statement submitted with the application details the proposed development wraps around the site creating a strong edge to the Grand Canal and River Camac enclosing a courtyard to Tyrconnell Road. It also introduces the canal as a key public amenity by creating a strong urban edge facing it with good surveillance from the proposed café terrace and apartment balconies. While the site is a sensitive areas in this conservation context, I consider the height and design of the proposal can successfully integrate into and enhance the character of the existing area and in particular the sites location along the Canal and Camac River.
- The applicants have submitted a 3D model in support of the application. This and the other drawings and submission with the application demonstrate how the proposed development's design, massing and height is deliberately designed to transition from north to south while achieving increased densities with sufficient variety in overall design. In in my view the proposal responds well to the scale of adjoining developments and will also create visual interest in the streetscape and in the context of Dublin City.

8.5.7. At the scale of district/ neighbourhood/ street

- The proposed development is set back 1.5m from its northern boundary with the house at No. 225 Tyrconnell Road with its ridge height indicated as

8.419m. The proposed building will have a height of 11.4m at its northern gable closest to No. 225. The proposal steps slightly forward of the building line with the house No. 225 for c. 22m and the roof pitches up with a pyramidal style roof to a point of 14.4m. At this point the building staggers inward to a height of 23.5m towards the site's southern boundary where the building then staggers back towards the public road with a generally flat style roof of 24m for c.46m along the boundary with the canal.

- I am satisfied the proposal responds to the site's context and built environment given its proximity to the Canal and River Camac. The proposal will make a positive contribution to the urban neighbourhood and streetscape. As the 3D model shows it is a unique design that responds to its immediate context and I would not describe it as monolithic as per the criteria described in the guidelines. I consider the solid to void ratio as well presented and balconies and windows provide visual interest to all elevations as well as passive surveillance to public areas. The materials and building fabric are detailed in Drawing No. D1706.PO.15 and include brick, a metal roof finish and render. They are simple finishes and well considered.
- I consider the proposal enhances the urban design context thereby enabling additional height along the southern site boundary with the Grand Canal. It will provide an interesting focal point along the entry to Inchicore when travelling from South to North having particular regard to the existing nine storey building in close proximity. In my opinion the proposal makes a positive contribution to legibility in this regard and will integrate in a cohesive manner.
- The provision of apartments and a café will positively contribute to the mix of uses and/or building/dwelling typologies available in the neighbourhood.

8.5.8. At the scale of the site/building

- The application is accompanied by a Skylight, Sunlight and Shadow Assessment and a Qualitative Wind Microclimate Assessment. The former concludes that the application generally complies with the recommendation and Guidelines of Site Layout Planning for Daylight and Sunlight: A guide to Good Practice (BRE2011) and BS8206 Lighting for Buildings, Part 2 Code of Practice for Daylighting and other updated relevant documents. The latter

does not recommend any mitigation measures along Tyrconnell Road or Goldenbridge Walk. It goes on to conclude the 'Lawson Safety Criterion' i.e. the criteria used for evaluation of pedestrian level winds surrounding the proposed development is unlikely to be exceeded post construction.

- Accordingly, it appears the proposed development has been designed to maximise access to natural daylight, ventilation and views. It is also designed having regard to its microclimate.
- Having considered the site, the proposed heights, the layout and orientation of the development I am satisfied the proposed development will not create undue overshadowing or loss of light to nearby properties. The sites current condition is acknowledged and the proposed development will secure comprehensive urban regeneration, a welcome and effective urban design and an appropriate transition in the local streetscape.

8.5.9. Specific Assessments

- In terms of environmental assessments these are considered separately in sections 6.5, 8.3 and 8.9 of this report.
- The site is not a Protected Structure and is not located within an Architectural Conservation Area. The application is accompanied by a Heritage Impact Assessment which notes the age of the public house on site to be c.180 years old. It has been subject to extensions and alterations throughout its lifespan to an extent that it is difficult to determine the original building. The report considers the retention of the building is not warranted and its demolition should be permitted.
- Having visited the site, inspected the public house and two houses to be demolished and reviewed the documentation submitted with the application I consider the demolition of the existing structures would have negligible impacts on the historic built environment.
- An Archaeological Assessment has also been submitted with the application. It is noted the application site is not located within a Zones of Archaeological Interest. The report concludes the potential for archaeological remains to be low. I agree with this finding.

8.5.10. Conclusion

Having considered the proposed building's height, scale and design in the context of the Urban Development and Building Heights Guidelines for Planning Authorities (2018), and in particular section 3.2 I consider the outlined criteria has been appropriately incorporated into the development proposals, and the proposed development is in accordance with Strategic Planning Policy Requirement 3A as set out in the Guidelines as well as Section 16.7 - 'Building Height in a Sustainable City' as set out in the Dublin City Development Plan. Accordingly, I am satisfied the proposed building height and design is acceptable in this context

8.6. **Flood Risk**

- 8.6.1. The site is located on the Banks of the River Camac and adjoining the Grand Canal. Volume 7 of the Dublin City Development Plan provides a Strategic Flood Risk Assessment (SFRA). Appendix 3 sets out Justification Test Tables and provides flooding maps. The subject site is identified with Site:18- Middle Camac: Davitt Road to South Circular Road and Site:19- Upper Camac: Old Naas Road Boundary to Davitt Road. The site appears to be within Flood Zone C. The proximity of the eastern boundary of the site, the steep western river bank slope and the rear of the houses at No 229 and 231 on Tyrconnell Road, to Flood zones A and B is noted.
- 8.6.2. The applicants have submitted a Site Specific Flood Risk Assessment Report with their application. In section 4.3 of the report they identify the site to be within Flood Zone Category C as defined by the 2009 Flooding Guidelines and as indicated by the OPW Maps. They then refer to mapping in Appendix B. I note there does not appear to be mapping provided in Appendix B of the documentation on file.
- 8.6.3. I have reviewed OPW mapping at floodinfo.ie and it appears the site is located with Flood Zone C. Accordingly a Justification Test is not required. The SFRA proposes a number of standard mitigation measures including maintenance of the proposed attenuation tank to address residual flood risk and states the development does not increase the risk of flooding to adjacent areas and roads once mitigation measures are implemented.
- 8.6.4. The previous planning application on this site, reference number 4416/18, which is generally the same as the current proposal, was refused in part because the flood

risk associated with the development was not adequately addressed in accordance with the Flooding Guidelines.

- 8.6.5. DCC requested further information on the current application in relation to consistency between the SFRA and the Slope Stability Assessment Report (SSAR) and potential instability. It also required statements on groundwater levels. A further potential residual risk in relation to flooding over the slope was also to be fully investigated.
- 8.6.6. In response to the FI request the applicants have detailed the reference to slope instability was prior to geotechnical analysis which concluded a SSAR was required. The submission also states the proposed flooding mitigation measures are sufficient to protect the development and will not cause flooding downstream or to external properties. Furthermore, it will not result in any greater possibility of slope failure during construction stage.
- 8.6.7. A review of the documentation submitted with the application has been carried out by McCloy Consulting (Water and Environmental Consultants) and submitted with the FI response on behalf of the applicants. In summary it details they have no reason to disagree with the SSFRA and the site lies within Flood Zone C. Surface water drainage proposals including attenuation will ensure no increase in flood risk elsewhere.
- 8.6.8. DCC's Drainage Division do not appear to have raised any concerns in relation to flooding following the submission of the Further Information and there is no reference to same in DCC's refusal reason.
- 8.6.9. The site is located on suitably zoned lands and is brownfield in nature. The site is located within Flood Zone C. The application proposes acceptable surface water runoff measures and subject to the mitigation measures of the SSFRA and the recommendation measures identified in the SSAR I do not consider the application site to be at risk of flooding or will lead to flooding elsewhere.

8.7. Car Parking, Cycle Parking and Vehicular Access

- 8.7.1. The development proposes vehicular and pedestrian access from Tyrconnell Road; 17 no. car parking spaces, 13 of which are located at basement level and 4 spaces in front of the development at ground floor level. One of these spaces is to be

dedicated for 'Go-car' car sharing. The application also proposes 78 bicycle parking spaces of which 22 are located at ground level and 56 in the basement of the development.

- 8.7.2. Section 4.19 of the 2020 Apartment Guidelines deals with car parking in 'Central and/or Accessible Urban Locations' details that the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.
- 8.7.3. I have reviewed the Transport Statement and Parking Strategy submitted with the application. I have also considered the reports of the Planning Authority's Transportation Division and the related submission of Further Information. I am satisfied that the proposed consolidation of vehicular access arrangements to and from the site to the northwest of the site, achievable sightlines of 45m, car and bicycle parking provision are acceptable in the context of the sites location.
- 8.7.4. Construction related traffic can be addressed by way of a detailed construction traffic management plan and this matter could be adequately dealt with by means of condition should permission be granted.

8.8. Other Matters

- The application includes a 106.4 sq.m café on the ground floor and to the southern boundary of the site. The café will present to Goldenbridge Walk and Tyrconnell Road providing an active use at ground level and passive surveillance of the canal. The proposal is considered a suitable use in this Z1 zoning. Should the Board decide to grant permission for the development I recommend conditions are attached in relation to hours of operation (given the residential uses above) and signage to be agreed with the Planning Authority.
- A Mobility Management Plan (MMP) has been submitted with the application. Should the Board decide to grant permission for the development I recommend a condition be attached ensuring the measures outlined in the 'Preliminary Action Plan' in section 7.0 of the MMP are implemented for the agreement and satisfaction of the Planning Authority.

8.9. Appropriate Assessment

8.9.1. Stage 1 – Screening

A 'Screening Report for Appropriate Assessment', has been submitted with the application compiled by Brian Keeley of Wildlife Surveys. The contents of this report appear reasonable and robust. It is noted that the site is not located within or directly adjacent to any Natura 2000 area. The site is generally composed of artificial habitats such as buildings and hard surfaces. The Grand Canal is located along the southern boundary of the site and flows from west to east. The River Camac flows from south to north along the eastern boundary of the site where it exits from a culvert underneath the Grand Canal.

The submitted screening report finds that *'Consequently, the proposed development does not require an Appropriate Assessment; there is therefore no requirement to progress to Stage 2.'*

8.9.2. The Proposed Development and Receiving Environment

The proposed development comprises the demolition of an existing building previously used as a public house and two dwelling houses. It also proposes the construction of an apartment building with 56 apartments and one café. The site can be described as brownfield in nature and fully hard surfaced. It is not located within or adjoining a designated European site. A Outline Construction Environmental Management Plan has been submitted with the application.

Taking account of the characteristics of the proposed development in terms of its nature, location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites-

- discharge of surface water from the site
- discharge of foul water from the site.

8.9.3. European Sites

Given the location of the site, and the nature and scale of the proposed development, I consider the following designated sites as set out in Table 1 to be within the zone of influence of the subject site-

Table 1-

Site Name & Code	Qualifying Interest / Special Conservation Interest	Distance
South Dublin Bay SAC [000210]	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	c. 7.7km to the east
North Dublin Bay SAC [000206]	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows [1330] Mediterranean salt meadows [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petaltwort <i>Petalophyllum ralfsii</i> [1395]	c. 11km east
South Dublin Bay and River Tolka Estuary SPA [004024]	Light-bellied Brent goose <i>Branta bernicla hrota</i> [A046] Oystercatcher <i>Haematopus ostralegus</i> [A130] Ringed plover <i>Charadrius hiaticula</i> [A137] Grey plover <i>Pluvialis squatarola</i> [A141] Knot <i>Calidris canutus</i> [A143] Sanderling <i>Calidris alba</i> [A149] Dunlin <i>Calidris alpina</i> [A149] Bar-tailed godwit <i>Limosa lapponica</i> [A157] Redshank <i>Tringa totanus</i> [A162] Black-headed gull <i>Chroicocephalus ridibundus</i> [A179] Roseate Tern <i>Sterna dougallii</i> [A192]	c. 7.7km to the east

	Common Tern <i>Sterna hirundo</i> [A193] Arctic Tern <i>Sterna paradisaea</i> [A194] Wetland and waterbirds [A999]	
North Bull Island SPA [004006]	Light-bellied Brent Goose <i>Branta bernicla hrota</i> [A046] Shelduck <i>Tadorna</i> [A048] Teal <i>Anas crecca</i> [A052] Pintail <i>Anas acuta</i> [A054] Shoveler <i>Anas clypeata</i> [A056] Oystercatcher <i>Haematopus ostralegus</i> [A130] Golden Plover <i>Pluvialis apricaria</i> [A140] Grey Plover <i>Pluvialis squatarola</i> [A141] Knot <i>Calidris canutus</i> [A143] Sanderling <i>Calidris alba</i> [A144] Dunlin <i>Calidris alpina</i> [A149] Black-tailed Godwit <i>Limosa</i> [A156] Bar-tailed Godwit <i>Limosa lapponica</i> [A157] Curlew <i>Numenius arquata</i> [A160] Redshank <i>Tringa totanus</i> [A162] Turnstone <i>Arenaria interpres</i> [A169] Black-headed Gull <i>Chroicocephalus ridibundus</i> [A179] Wetland and Waterbirds [A999]	c. 11km east

I am satisfied that other European sites proximate to the appeal site can be ‘screened out’ on the basis that significant impacts on such 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.

8.9.4. Test of Likely Significant Effects

The project is not directly connected to or necessary to the management of any European site. The proposed development is examined in relation to any possible

interaction with European sites to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Based on the source-pathway-receptor model, the nearest downstream pathway to designated sites from the appeal site would appear to be the Grand Canal to the South of the site and the River Camac along the sites eastern boundary. Both of these waterbodies flows into Dublin Bay. The Camac is a tributary of the River Liffey joining it c.3km to the site's north east.

8.9.5. **Potential Effects**

Having regard to 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. I consider standard construction methods would generally be sufficient to address these considerations during both the construction and operational phase.

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.

The proposal development is to utilise Sustainable Urban Drainage Systems (SUDs) including attenuation and therefore there will be no adverse change to the quantity or quality of surface water leaving the site. It is considered the proposal could manage the existing situation in more controlled manner before discharging to the combined foul and surface water sewer. No surface water is to enter the Camac River or the Grand Canal.

All foul water from the proposed development would be discharged via the public system to the Ringsend Wastewater Treatment Plant (WWTP). Permission has been granted (ABP Ref. 301798-18) for works that would increase the capacity of the plant. I note the screening report details there is evidence to suggest that some nutrient enrichment is benefiting winter birds for which the SPAs have been designated in Dublin Bay (Nairn & O' Halloran eds, 2012). It goes on to detail that

increased flows from this project to Ringsend WWTP, individually or cumulatively are not likely to have a significant impact on protected sites.

I consider that the distances are such that any pollutants in discharge post treatment from the Ringsend WWTP would be minimal and would be sufficiently diluted and dispersed. 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.

8.9.6. **In-combination Impacts**

Having regard to the above findings of no likely significant effects from the proposed development, I am satisfied that likely significant in-combination impacts would not arise in this context.

8.9.7. **Conclusion**

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) would not be likely to have a significant effect on the following European Sites-

- South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024),
- South Dublin Bay SAC (Site Code: 000210),
- North Bull Island SPA (Site Code: 004006) and
- 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.

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. I recommend that planning permission should be refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

- 10.1. Having regard to the overall quality of the proposed development in terms of Apartment Mix, Apartment Design Standards including required Minimum Floor Areas and in order to Safeguarding Higher Standards in the interests of sustainable and good quality urban development so as to ensure the delivery of apartments not built down to a minimum standard, it is considered that the proposed development does not comply with Specific Planning Policy Requirement 1, 2 and 3 and the requirements of section 3.8 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, December 2020, issued under Section 28 of the Planning and Development Act, 2000-20 (as amended). The proposal would therefore be contrary to the Ministerial Guidelines, and the proper planning and sustainable development of the area.

Adrian Ormsby
Planning Inspector

19th February 2021