



An
Bord
Pleanála

Inspector's Report

ABP-308678-20

Development	Modifications of residential development for increase from 39 to 55 units to include 2 additional floors.
Location	85, Templeogue Road, Terenure, Dublin 6W.
Planning Authority	Dublin City Council South
Planning Authority Reg. Ref.	2065/20
Applicant(s)	Sheelin McSharry Construction Ltd.
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	First and Third Party
Appellant(s)	Sheelin McSharry Construction Ltd Garrett McCarthy and Jean Cullinan
Observer(s)	Teresa Stapleton & Donal Matthews Ray Clarke and Shauna Igoe Garrett and Jean McCarthy

Date of Site Inspection

23rd of February 2021

Inspector

Adrian Ormsby

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1.0 Site Location and Description

- 1.1. The site is c. 4.8km south west of Dublin City Centre at No. 85, Templeogue Road, Terenure, Dublin 6W. Templeogue Road (R137) is a heavily trafficked two way road with cycle lanes and footpaths linking Templeogue and Terenure. The site is c. 300m south west of the centre of Terenure.
- 1.2. The site is located on the north west side of the road in an area that can be characterised by a number of existing residential houses ranging from two storey detached, two storey semi-detached, two storey over basement style houses semi-detached houses and two terrace of c. 4 two storey houses.
- 1.3. The Terenure CDETB Sportsgrounds is located to the rear and north of the site. These grounds are accessed by a vehicular entrance c. 90 m to the north east of the site. There are a number of playing fields within these grounds and a clubhouse/pavilion is located in close proximity to the rear of the application site.
- 1.4. The sports ground is generally surrounded by residential properties including those on Olney Grove to the north east, Greenlea Rd to the north, Lakelands Park to the south west and the properties on Templeogue Road. The majority of these residential properties are two storey houses.
- 1.5. The site includes an existing two storey hipped roof house that is not currently in use with its windows hoarded up. There is an existing vehicular entrance along the southern boundary of the site. The site is bounded to the public path by a low level wall, entrance piers and gates. There is a hedgerow behind the wall and high level trees along the south western boundary and to the rear of the site.
- 1.6. The existing house is located between No.'s 83 and 87 Templeogue Road and set back c. 17m from the road where it forms part of a staggered building line. The site is c. 100m deep which returns to the north east for a small distance behind the properties at No.'s 81 and 83 Templeogue Road where its north eastern boundary adjoins the access road to the clubhouse/pavilion in the sportsground. The site can be described as a residential in nature but underutilised and in need of redevelopment. The site area is stated as 3,410 sq.m.

2.0 Proposed Development

2.1. The proposed development comprises of modifications to the residential development permitted under Reg. Ref.: 2878/15 & ABP Ref. PL29S.245834 as subsequently amended under Reg. Ref.: 2707/17. The modifications relate to Apartment Block A only and consist of the following-

- An increase in the number of apartments from 39 to 55 no. units in the overall scheme
- Reconfiguration and alterations to the permitted Apartment Block A to provide 9 no. additional units on previously permitted floors.
- The provision of 2 no. additional floors at 4th and 5th floor to provide 7 no. additional units, (1 no. 1 bed and 6 no. 2 beds), with a total GFA of 710 sq.m.
- The number of units in Block A increases from 28 to 44 no. units comprising 5 no. studios, 11 no. 1 beds, 27 no. 2 beds and 1 no. 3 bed duplex apartment.
- Increase in height of Block A from 14.1m to 21.6m (in part).
- Modifications to the communal open space to provide for 387 sq.m at ground floor level,
- provision of a communal roof terrace at fifth floor, with a total GFA of 73.5 sq.m.
- Associated alterations to the elevations including provision of terraces and balconies on all elevations.
- Alterations to the permitted cycle parking layout and an increase in the cycle parking provision of 71 no. spaces.

2.2. The Planning Authority sought further information (FI) on the 13/03/20 which can be summarised as follows-

- Submission of photomontages in order to assist with the assessment of the proposed development on the character of the area, in particular when viewed from Templeogue Road.

- Provision of a 1.8 metre screen on the southern elevation of the proposed fifth floor balcony of apartment No. A44 and replacing the proposed windows on the southern elevation of the proposed fourth floor apartment No. A39 with high level or obscure glazed window.
- Submission of a shadow analysis indicating the impact of the proposed development on adjoining dwellings and their gardens.
- Submission of a landscape masterplan with an arboricultural report of the whole site in order to assess the quality of proposed open space provision.

The applicant responded to the Further Information request on the 22/09/20.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission on the 19/10/20 subject to 10 conditions generally of a standard nature and including-

- C4 which required the following amendments:
 - a) The fifth floor omitted (Apartments A43, & A44)
 - b) the two windows shown on the south elevation to Apartment A39 shall be amended to high level windows only.
 - c) The window to the external lobby outside Apartment A39 on the south elevation shall be fitted with obscure glazing.
- C5 b) requires one car parking space shall be permanently allocated to each residential unit and numbered as such.
- C6 b) requires a revised flood risk assessment addressing potential flood risks to the basement at construction stage and when the basement is developed.

4.0 Planning Authority Reports

4.1. Planning Reports

The report of Dublin City Council's (DCC) Planning Officer (dated 22/10/20) reflects the decision of the Planning Authority. The following is noted from the report-

- A building of this height would be acceptable under SPPR 3 of the Urban Development and Building Heights Guidelines for Planning Authorities (December 2018). However, the height scale and design of the proposed amended scheme would be out of keeping with the surrounding suburban architecture.
- Block A is proposed to be six storeys in height, while the surrounding dwellings are two or three storeys in height. The permitted Block A is well setback from the streetscape of Templeogue Road and its perceived height would be similar to surrounding properties.
- After reviewing the applicants response to FI, and due to the proposed height at 6 floors, and having regard to the prevailing pattern of development in the surrounding area, it is considered that this height will be visible and would impact negatively on amenities in the area (unduly overbearing and visually obtrusive). It is recommended that the proposed 5th floor be omitted by way of condition, in order to reduce the height and bulk of this block.
- The proposal would have a site coverage of 45% and a plot ratio of 0.78 which would comply with the indicative figures in Z1 zoned area.

4.2. Other Technical Reports

- Transportation Division- no objection subject to conditions.
- Drainage Division- no objection subject to conditions.

4.3. Prescribed Bodies

- None received

4.4. Third Party Observations

Nineteen third party submissions were received and are on file. The main issues raised can be summarised as follows-

- Injurious to Visual Amenity by way of excessive height, bulk and scale, obtrusive and dominant, discordant feature, office look design, monolithic brick facades that would be out of character with the area and will be visible from many other areas. It does not make a positive contribution to the urban streetscape.
- Injurious to Residential Amenity of the area including overlooking, overbearing and proximity to the houses at No.'s 81 and 83 Templeogue Road in particular, overshadowing and loss of light to living areas and private amenity spaces increases in noise and light pollution, devaluation of property in the area.
- Overdevelopment of a small site and too high a density which would be excessive, injurious and incompatible for the area. The planning history shows that a 4 storey development was already at the maximum limit of injury in the sites context.
- Not consistent with the NPF, 2018 Building Height Guidelines, Apartment Guidelines 2018, Sustainable Residential Development in Urban Area Guidelines 2009 and DCC Development Plan and the zoning of the site and surrounding area.
- Roads and Traffic concerns- Congestion in the area, public safety, inadequate car parking and overspill to surrounding roads, impact on Bus Connects and access for service vehicles
- Inadequate screening of the proposed development from trees. 6 stories to block A will tower over trees. One of the trees in the VEC grounds no longer exists and the application is misleading.
- Impact on water and sewer services in the area. No increase in waste services proposed.

- There is an ABP precedent for refusing similar developments 303996 and some of the reasoning can be applied to this case.

5.0 Planning History

- 2707/17 modifications to 2878/15 & ABP Ref. PL29S.245834, Reconfiguration resulting in an increase of 10 no. additional units from 29 to 39 no. units in total. Grant 20/07/17.
- 2878/15 & ABP Ref. PL29S.245834 construction of 29 residential units, comprising two houses. 27 number apartments in two blocks, Grant 14/04/16. One apartment omitted by ABP condition 2.
- 3998/10- 2 no. dwellings, 30 apartments three to four storeys, permission refused 21/01/11-
 1. overdevelopment of backland site,
 2. seriously injure the amenities of property in the vicinity,
 3. inappropriate and unsympathetic backland developments in terms of bulk, density and scale.
- 4841/05, PL29S.215431- 8 no. dwellings and a five storey 28 unit apartment block, refused 21/04/2006
 1. overdevelopment and out of character residential amenities, quality and quantity private open space.
 2. seriously injure the amenities of property in the vicinity
 3. endanger public safety by reason of a traffic hazard
- 4266/04, PL29S.209612- 55 no. apartments

1. Height, bulk, scale and proximity to adjoining properties, impact on residential amenity.
2. Over-development of the site.
3. Obtrusive and out of scale
4. Deficient in car parking.
5. Inadequate sightlines.
6. Quality of apartments.

6.0 Policy Context

6.1. National Policy and Ministerial Guidelines

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. Relevant National Policy Objectives include-

- *2a- A target of half (50%) of future population and employment growth will be focused in the existing five Cities and their suburbs.*
- *3a- Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements*
- *3b- Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints*
- *5- Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.*
- *11- In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.*

- 13- *In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.*
- 35- *Increase residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.*

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 (SPPR's) are relevant-

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).

Specific Planning Policy Requirement 2

This relates to 'all building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha'. The proposed development does not meet this criteria and therefore SPPR 2 does not apply in this instance.

Specific Planning Policy Requirement 3 states-

Minimum Apartment Floor Areas:

- *Studio apartments (1 person) 37 sq.m*
- *1-bedroom apartment (2 persons) 45 sq.m*
- *2-bedroom apartment (4 persons) 73 sq.m*
- *3-bedroom apartment (5 persons) 90 sq.m*

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

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....*

Specific Planning Policy Requirement 5-

- *Ground level apartments floor to ceiling heights shall be a minimum 2.7m and shall be increased in certain circumstances.....*

Specific Planning Policy Requirement 6-

- Maximum provision of 12 apartments per core

Section 4.10

The provision and proper future maintenance of well-designed communal amenity space will contribute to meeting the amenity needs of residents. In particular, accessible, secure and usable outdoor space is a high priority for families with young children and for less mobile older people. The minimum required areas for public communal amenity space are set out in Appendix 1..

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.

Appendix 1- Required Minimum Floor Areas and Standards

6.1.3. Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG 2018);

Specific Planning Policy Requirements 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);

- Section 5.8 (c) Public transport corridors

.....it is important that land use planning underpins the efficiency of public transport services by sustainable settlement patterns – including higher densities – on lands within existing or planned transport corridors.

.....Walking distances from public transport nodes (e.g. stations / halts / bus stops) should be used in defining such corridors. It is recommended that increased densities should be promoted within 500 metres walking distance of a bus stop

The capacity of public transport.....should also be taken into consideration in considering appropriate densities. In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. Minimum densities should be specified in local area plans, and maximum (rather than minimum) parking standards should reflect proximity to public transport facilities.

- 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 EN 17037:2018 Daylight in Buildings.

6.2. Regional Guidance

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

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.

6.3.2. The following policies are also relevant-

- 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.

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

- Section 7.4 Retail Guidance- Table 7. 1 RSGDA 2008 – 2016 Retail Hierarchy for Dublin City and Fig 7 Retail Strategy identifies Terenure as a Level 4 Neighbourhood Centre.
- Section 4.5.3 - Making a More Compact Sustainable City;
- Section 4.5.9 - Urban Form & Architecture;
- Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);
- Section 16.2 - Design, Principles & Standards;
- Section 16.5 - Plot Ratio Indicative Plot Ratio Z1 Outer City 0.5 – 2.0
- Section 16.6 - Site Coverage Indicative Site Coverage Z1 45% – 60%
- 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 16m restriction in the Outer City.
- Section 16.10 - Standards for Residential Accommodation
 - 16.10.1 Residential Quality Standards- Apartments
- Section 16.38 - Car Parking Standards Table 16.1- Map J Area 3 / Zone 3 - maximum of 1.5 per dwelling.

6.4. **Natural Heritage Designations**

- 6.4.1. The site is c. 5.7km west of the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024). The site is also c.9.6km south west of the North Dublin Bay SAC (000206) and North Bull Island SPA (004006).

6.5. **Environmental Impact Assessment**

- 6.5.1. Having regard to the nature and small scale of the proposed development, the permitted development on site and the sites context on a serviced 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

A first and third party appeal have been received.

7.1.1. The first party appeal can be summarised as follows-

- The appeal is against the content of Condition 4(a) attached by DCC which omits the fifth floor (apartments A43 & A44).
- The proposed development is in accordance with national planning policy as the site has the capacity to absorb higher density development on an infill site, located close to existing and planned high capacity public transport.
- The two additional floors proposed to Block A relate to the rear of the site which is least sensitive and well set back from Templeogue Road.
- There is a remarkably low potential impact of the amenity of adjacent residential property in terms of overshadowing and visual impact having regard to separation distances and landscaping buffer.
- The omission of the fifth floor is unreasonable and unnecessary in the context of the buildings design, height and relationship with surrounding buildings.
- The proposed development has regard to 2018 Apartment Guidelines and the 2018 Building Height Guidelines, which reinforce the objectives of the NPF for increased density and greater building heights in appropriate urban locations with access to public transport corridors.
- The site is well served by public transport with Route 15 passing every 10 minutes, Routes 65/65b every 20-40 minutes and Route 49 every 30 minutes. The site is also located on a Bus Connects Route from Tallaght to Terenure. The site can be characterised as 'Central and/or Accessible Urban Location' as defined in the 2018 Apartment Guidelines.

- The closest house to the area of the proposed development is No. 83 Templeogue Road and is located 24.5m east of Block A. Adequate separation distances have been provided. The impact on the house at No. 87 Templeogue Road is mitigated by mature trees along the boundary line.
- The proposed maximum height is 21.6m exceeding the restriction of 16m for Outer City areas in the Development Plan. DCC have permitted a height of 18.1m which exceeds the Development Plan.
- SPPR 3 of the 2018 Building Height Guidelines supersede the Development Plan and where a development complies with the relevant criteria then permission can be granted. The appeal addresses in detail how the proposal complies with the criteria and SPPR3.
- The proposal equates to a density of 161.8 units per ha and is a suitable location for such a density having regard to Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas given its location within an existing built-up area served by public transport.
- The principle of the development is acceptable in the Z1 zoning.
- As indicated in the photomontages submitted in response to FI there is no material change to the visual impact from the streetscape on Templeogue Road. Modifications to the upper floors are only visible to a slight degree in proposed view 2. The modifications are well setback and additional visual impacts are not significant and do not adversely affect the character of the area. The appellants refer to a Visual Impact Assessment prepared by Parkhood Chartered Landscape Architects which details Block A would be barely perceptible to any visual receptors on Templeogue Road.
- The Daylight and Sunlight Assessment submitted at FI stage details that there is no material increase in the impact from the proposed amendments when compared with the permitted scheme. Adjacent properties will continue to have a very high level of sunlight in their amenity spaces and there is no material change in levels between the permitted and proposed. Neighbouring properties will also not be unduly impacted in terms of overshadowing from the modifications.

- The appeal is accompanied by-
 - A Townscape and Visual Impact Assessment by Parkhood
 - Photomontages by Digital Dimensions
 - Ecological Note by Enviroguide
 - Telecommunications Statement by Homan O'Brien

7.1.2. A third party appeal has been received from Harcourt Architects on behalf of Garrett McCarthy and Jean Cullinan of 81 Templeogue Road, Dublin 6W and can be summarised as follows-

- The appellants family home is located directly east of the proposed development and in particular Block A.
- The conditioned reduction of two apartments / the 5th floor do not go far enough in mitigating against the real and serious injury that will be caused to the adjacent residential properties by overshadowing and visual obtrusiveness.
- The appellants request the Board to condition that the 4th floor as granted be omitted. Such a compromise would provide nine additional residential units this would help protect the amenity of existing residents. This would be consistent with each assessment and determination made by the Board in relation to this site.
- The increased scale from 3 storey to 5 storey above ground level-
 - remains deficient in accurate representation and assessment of the existing built natural environment
 - Not consistent with the application of increased heights as envisaged under the NPF and 2018 Building Height Guidelines.
 - Contrary to the pre-existing policies and objectives in place to protect the established character and residential and visual amenities of the location

- The planning history of refusals together with consistent reasoning provided, illustrate that there is a considered and consistent position that anything above 4 storeys will give rise to serious injury to the context.
- The permitted and proposed scheme, substantially rely upon trees to screen the mass of Block A when viewed from the north and within the context of the established 2 no. storey homes on Templeogue Rd. One of these trees and the one most relied upon to screen and conceal the incongruity of scale is no longer there, reliance on such screening effects are doubtful and redundant for the scheme as permitted. This tree is featured in the arborist survey report and indicates that it will remain. The engineers tree retention plan illustrates this tree will be removed on account of its diameter. There will be no meaningful screening of the development when viewed from the north east.
- The appellant refers to the Inspectors Report of PL 29S.245834-
 - Section 2.3 views from within the sports grounds of these elevations would be available and the discrepancy between the scale of Block A and existing houses would be capable of being read.
 - Section 2.11 the Inspector concludes that provided the top storey of Block A is omitted, the proposal would be compatible with the visual amenities of the area.
- The proposed facade of Block A is just under 4 metres from the edge of No 8's rear private garden and less than 23 metres from the main family kitchen and dining area. The private amenity relies almost solely on west evening light to naturally light the area. The proposed increase in height to 16.8m constitutes a 33% increase. There will be a significant loss of light to the rear of No's 81 and 83 should the five storey scheme be allowed to progress.
- The appeal provides comparative shadow studies for May to September for west evening light, comparing the previously approved four storey scheme and the recently approved 5 storey development.
- The established residential density of the area is between 7 and 21 units per ha. The proposal has a net density of 155 units per hectare, an almost 300% increase on the 50% guide in Section 5.4 of the Sustainable Residential

Developments in Urban Areas Guidelines (SRDUA). The 2017 permission start to strike the necessary balance in density and did so to the threshold of what might be considered acceptable. The permitted development does not.

- The current proposal seeks to rely on the Building Height Guidelines 2018 in justification of the increase in massing and height. The appellant considers that the applicant has not demonstrated that the development satisfies section 3.2 of the guidelines. The proposal fails on each criteria.
- The current proposals do not make a positive contribution to the urban neighbourhood and do not integrate in a cohesive manner within the wider urban area.
- The primary living areas of No's. 81 and 83 would be presented with a sequence of monolithic brick facades that begin less than four metres from rear gardens and extend over 20 metres in height this would impose an oppressive and unacceptable intrusion to existing residential amenity and quality of light.
- In relation to Section 2 of the guidelines the proposals can again be found to be patently deficient in terms of the assessment of the context. The increased height buildings are not an appropriate topology in this particular setting.
- Notwithstanding the Guideline objectives, in determining applications, existing Development Plan policies remain applicable whereby developments should be appropriate to their context and due consideration is provided for the protection of surrounding residents household and communities- Policy SC13.
- The granted additional 1 storey would only precipitate a further 5 apartments but would have a disproportionate and detrimental effect in terms of the existing context and the amenity of existing family homes already established there.

7.2. Applicant Response

The applicant's response to the third party grounds of appeal can be summarised as follows:

- Block A is located c. 24.5 metres from their closest existing residential dwelling outside of the site number 83, which is situated to the east of Block A. No. 81 is located further east and has a separation distance of 23 metres from the proposed development. The additional storeys are set back at 4th and 5th floor level and have a separation distance of 46 - 51.8 metres from No's. 81 and 83.
- Adequate separation distances are provided and existing dwellings will not be impacted by the additional floors to Block A. It is submitted that the proposal would not result in a significant adverse impact on residential amenity or have adverse visual impacts.
- The separation distance mitigates against any significant visual impact from the neighbouring properties and their amenity spaces. The applicants refer to the updated Landscape Plan submitted at FI stage, which illustrates the boundary treatments to development.
- It was accepted in granting permission for development on the site that it was not possible to retain all existing trees along the western and northern boundary. To achieve the maximum retention of existing trees this application has reduced the basement floor area to 1,764 sq.m to further protect tree protection zones on the western and northern boundaries and to facilitate new tree planting in the area. Retained trees and proposed planting assists with the screening of the development from adjacent properties and mitigates against potential visual impact. There is also obscure screening on all terraces and balconies on the eastern elevation to prevent direct overlooking from the additional units
- The Daylight and Sunlight Assessment submitted at FI stage examines the impact of the proposed modifications on the adjoining property and their external amenity spaces. These illustrate no significant additional impacts in terms of overshadowing of adjoining residential properties.
- There is no material increase in the impact arising from the proposed development in terms of daylight. The development complies with the recommendations of the BRE guidelines and any impact when compared to the permitted scheme will be negligible.

- The properties will continue to have a very high level of sunlight in their amenity spaces and there is no material change between the permitted and proposed developments. The proposal complies with the BRE guidelines for gardens and open spaces
- The omission of the 4th floor is unnecessary in the context of the buildings design, height and relationship with surrounding buildings.
- The site is a suitable location for densities higher than 50 dwellings per hectare as per the recommendations of the Sustainable Residential Guidelines, given its location within an existing built up area that is well served by public transport.
- The site can accommodate a greater height in accordance with national policy and SPPR 3 of the Building Height Guidelines.

7.3. **Planning Authority Response**

- None received

7.4. **Observations**

Three observations were received from-

- Teresa Stapleton & Donal Matthews,
- Ray Clarke and Shauna Igoe
- Harcourt Architects on behalf of Garrett and Jean McCarthy (also noted as third party appellants)

The issues raised by observers are generally covered in the grounds of appeal and can be summarised as follows-

- Impacts on Residential Amenity- overlooking and loss of privacy, overshadowing, overbearing
- Impacts on Visual Amenity- The proposal would be out of character with the low rise suburban area. The excessive bulk, height, scale and proximity to adjoining properties would be seriously injurious to amenities. Assessments of the visual impact have had little regard for residents of Olney Crescent, Olney

Grove and Greenlea Road. It is inaccurate that the 1st party states that the additional 2 number floors will have a low visual impact to Templeogue Rd. The applicant's visualisations are at an extreme variance with comparable views provided by the observers modelling and assessment of the same scheme. It is requested that third party verified views from the rear of No. 81 be Templeogue Road be carried out.

- Increased density, Overdevelopment of the site, and appropriateness of Housing Mix, having regard to the proximity of the developments to a number of houses and the character of the area.
- The 2018 Apartment and Building Height Guidelines are not intended to require the maximisation of the development potential of every site. It remains important to consider the suitability of each location to determine what developments will be appropriate. Proposed planting to the northern boundary will come nowhere close to screening the view of the development.
- To permit a 5.6m increase from the 16m height restriction would be a considerable disregard for the DCC Development Plan and would serve as a precedent for future developments to disregard the plan.

8.0 Assessment

8.1. Introduction

- 8.1.1. A first-party appeal has been lodged against condition no. 4 (a), which was attached to the Planning Authority's notification of a decision to grant planning permission. This appeal relates specifically to the omission of the fifth floor and two apartments.
- 8.1.2. A third party appeal has also been received against the proposed development. Therefore, it is appropriate that the proposed development and both appeals will be considered on a de novo basis.
- 8.1.3. In the interest of clarity as the application is for modifications to an already permitted development under Planning Reference No. 2878/15 and ABP PL29S.245934, this assessment only relates to the proposed modifications and will not reconsider the permitted development on the site.

8.1.4. I have examined the application details and all other documentation on file, including the submissions received in relation to the appeal and planning application Reference No. 2878/15, ABP PL29S.245934 and 2707/17. 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).

8.1.5. I consider the substantive issues arising from the grounds of this appeal, and for the purpose of assessing the appeal, relate to the following-

- Zoning and Principle of the Development,
- Apartment Standards
- Building Height and Design
- Density/Overdevelopment
- Residential Amenity
- Visual Amenity
- Traffic, Roads and Car Parking.
- Flooding
- Other Matters
- Appropriate Assessment

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. Accordingly, I am satisfied the proposed development accords with the land use zoning.

8.3. Apartment Standards

8.3.1. 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 these will form the basis of this assessment.

8.3.2. For the purpose of the Guidelines and this assessment, the proposal is not considered to be a 'Building Refurbishment Scheme' or an 'Urban Infill Scheme'. The existing building on site is not being refurbished and the site has a stated site area of 0.341ha and exceeds the specified 0.25ha.

8.3.3. Section 2.4 of the Guidelines details criteria for identifying location in cities and towns that may be suitable for apartment development. In this regard I am satisfied the subject site can be described as a 'Central and/or Accessible Urban Location' which includes- '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 sites proximity to existing and proposed bus services is noted.

8.3.4. The proposed development will therefore be assessed against the following Specific Planning Policy Requirements of the 2020 guidelines- SPPR 1, 3, 4, 5, and 6.

8.3.5. SPPR 1

The existing permitted development is for 39 residential units in two blocks-

- 2 no. houses
- 28 apartments in Block A
- 9 apartments in Block B
- Breakdown of permitted overall mix-
 - 10 no. 1 beds (7 in Block A and 3 in block B)
 - 21 no. 2 beds (15 in Block A and 6 in block B)
 - 6 no. 3 beds (all in Block A)

The proposed modifications all relate to Block A only and are for-

- Reconfiguration of permitted building from 28 apartments to 37 apartments
- Two new floors with 7 apartments
 - 1 no. 1 bed

- 6 no. 2 bed
- Total apartments to Block A is 44
- Proposed Block A-
 - 5 no. studios
 - 11 no. 1 beds
 - 27 no. 2 beds
 - 1 no. 3 bed
- Total units/apartments in Block A and Block B is 53 with two houses- 55 units.
- Breakdown of proposed overall mix-
 - 5 no. studios
 - 14 no. 1 beds (11 in Block A and 3 in block B)
 - 33 no. 2 beds (27 in Block A and 6 in block B)
 - 1 no. 3 beds (all in Block A)

The proposed development and its modifications to the permitted development clearly comply with SPPR 1 in that less than 50% of the proposed units in the overall scheme are one bedroom or studio apartments.

8.3.6. SPPR 3

This requirement sets out minimum requirements for apartment floor areas and in particular requires-

- 37 sq.m for studio apartments (1 person),
- 45 sq.m for 1-bedroom apartment (2 persons)
- 73 sq.m for 2-bedroom apartment (4 persons) and
- 90 sq.m for 3-bedroom apartment (5 persons)

The application is accompanied by a Housing Quality Assessment (HQA) which details proposed floor areas as-

- All 5 studio apartments range from 37.6 sq.m to 38.6 sq.m

- All 14 no. 1 bedroom apartments range from 49.4 sq.m to 57.1 sq.m
- All 33 no. 2 bedroom apartments range from 78.2 sq.m to 94.8 sq.m
- The 1 no. 3 bedroom apartment has a floor area of 127.4 sq.m.

The proposed development and its modifications to the permitted development clearly comply with SPPR 3.

8.3.7. 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, 2 or 3-bedroom unit types, by a minimum of 10% (any studio apartments must be included in the total).

In accordance with the example provided in section 3.9 of the Guidelines I have calculated the 'Cumulative Min Floor Area' for the proposed units to be- 3,314 sq. The 'Total Required Minimum Floor Area would be $3,314 + 331.4 = 3,645.4$ sq.m. Therefore 331.4 sq.m of additional floor space is required and needs to be allocated to at least the majority of the apartments i.e. 27 units.

In section 6.45 of the Cover Letter accompanying the application, the applicants refer to the submitted HQA and detail c. 63.6% or 35 units are at least 10% larger than the minimum standard. I have reviewed the HQA and note these units include 1, 2 and 3 bedroom apartments.

Having reviewed the HQA, I have calculated the proposed modifications provide 455.2 sq.m of additional floor space and this is distributed to 33 apartments, all in Block A.

I am satisfied the proposed development and its modifications to the permitted development comply with the requirements of section 3.8.

8.3.8. SPPR 4

This SPPR requires a minimum of 33% of dual aspect units in 'Central and Accessible Urban Locations'.

The applicants have indicated they are proposing 60% dual aspect apartment which equates to 33 apartments and 22 or 40% single aspect units. Having reviewed the QHA and submitted drawings, I am satisfied that 31 apartments and two houses are dual aspect and 22 apartments are single aspect. The proposed development complies with SPPR 4.

8.3.9. SPPR 5

This SPPR requires ground level apartments to have floor to ceiling heights of a minimum of 2.7m. Having reviewed the proposed section drawings submitted with the application and section 6.47 of the applicants cover letter I am satisfied the proposed development complies with SPPR 5.

8.3.10. 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 five upper floors to Block A with a maximum of 8 apartments over three floors and one core. There are no changes proposed to Block B. I am satisfied the proposed development complies with SPPR 6.

8.3.11. Other Requirements

The apartment guidelines sets out a number of other requirements-

- Appendix 1 details requirements in relation to '*Required Minimum Floor Areas and Standards*' for living/dining/kitchen areas, bedrooms, storage, private amenity space and communal amenity space. Having reviewed the submitted QHA, the proposed development appears to meet all of these requirements.
- In relation to Communal Amenity Space the applicants have indicated in section 4.24 of their cover letter that the communal court yard decreases from 416 sq.m to 387 sq.m. The additional floors results in the omission of a third

floor roof garden. This differs from section 6.52 of the same cover letter which details there is no change to the permitted communal amenity space. They indicate the permitted 410 sq.m of space is in excess of the minimum required of 330 sq.m for such apartment developments. I note the development description and proposed drawings show 387 sq.m of communal amenity space at ground level and the provision of a roof terrace of 73.5 sq.m at fifth floor level. I am satisfied the proposed development complies with the requirements for communal amenity space.

- Section 6.13 requires the submission of a Building Lifecycle Report to include an assessment of the long term running and maintenance costs of the development as they would apply on a per residential unit basis. The report should demonstrate what measures have been specifically considered to effectively manage and reduce costs for the benefit of residents. This requirement does not appear to have been complied with. I am satisfied this can be adequately addressed by the addition of an appropriate condition should permission be granted.

8.3.12. Conclusion

The site is located in area that can be described as a Central and/or Accessible Urban Location in accordance with the 2020 Apartment Guidelines. The proximity of the site to existing and proposed bus services is evident. Overall the proposal and permitted scheme will provide for 55 residential units with 53 apartments ranging from studio to 3 bedroom. 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 complies with all relevant SPPR's and the majority of the requirements of the 2020 Apartment Guidelines.

8.4. Building Height and Design

- 8.4.1. Although the Planning Authority considers a building of this height would be acceptable under SPPR 3 of the 'Urban Development and Building Heights Guidelines for Planning Authorities (2018)', the Planners Report also consider the height, scale and design would be out of keeping with the surrounding suburban architecture. It describes the fifth floor as excessive at this location, unduly overbearing and visually obtrusive. Through Condition 4 (a) the Planning Authority have omitted the fifth floor (Apartments A43, & A44).
- 8.4.2. The applicants have appealed condition 4 (a) arguing the proposal complies with national policy, the site has the capacity to absorb higher density development and is a suitable location close to existing and planned high capacity public transport. They also contend the two additional floors are to the rear of the site which is least sensitive and well set back from Templeogue Road.
- 8.4.3. The third party appellants contend that the proposed development is not consistent with the application of increased heights as envisaged under the NPF and 2018 Building Height Guidelines.
- 8.4.4. 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 16m height restriction in the Outer City and the subject site. The current proposal seeks to rely on the Building Height Guidelines 2018 in justification of the increase in height and breach of the Development Plan.
- 8.4.5. 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'*.
- 8.4.6. Section 3.2 of these Guidelines sets out the Development Management Criteria and include the scale of the relevant city, neighbourhood and street and also the scale of the site/building itself.

8.4.7. The scale of the relevant city/town

- The site is located c. 4.8km south west of Dublin City Centre and c. 300m south west of the centre of Terenure which is zoned Z4 District Centre with an objective to provide for and improve mixed-services facilities. Terenure is also identified as a Level 4 Neighbourhood Centre as per Table 7. 1 'RSGDA 2008 – 2016 Retail Hierarchy for Dublin City' in the City Development Plan.
- The site is well served by existing and proposed public transport with high capacity, frequent services and good links to other modes of public transport.
- There are no Protected Structures in close proximity to the site and it is not located within or near an Architectural Conservation Area.
- I acknowledge the south western boundary of the site adjoins a small parcel of land that is zoned Z2 - Residential Neighbourhoods (Conservation Areas)' within the Dublin City Development Plan 2016-2022. This zoning includes house No.'s 87 and 89 Templeogue Road which are a pair of semi-detached style two storey over basement style houses.
- The proposed development has been designed very much in keeping with the existing permitted development which has been deemed acceptable in terms of its design.
- Having considered the above, I am satisfied that the addition of two floors as proposed will not have a negative impact at the scale of the city.

8.4.8. At the scale of district/ neighbourhood/ street

- The proposed development must be considered in the context of the already permitted development on site as well as the existing context on Templeogue Road where the majority of property are two storey houses fronting the road.
- The proposal provides an increase in height from an already permitted 14.1m to 21.6m over the fourth and fifth floors of Block A. These floors are set back and staggered to the rear of the site, away from Templeogue Road and are closest to the boundary adjoining the sportsground.
- The siting of the proposed floors towards the northern boundary is clearly intended to the least sensitive area of the site and away from existing

residential properties on Templeogue Road. The permitted and proposed contiguous elevation drawings show how the permitted and proposed development steps up from a south east to north west direction from single storey to six storey. This will create a built transition from existing houses on Templeogue Road which in my opinion avoids monolithic and uninterrupted building walls in this context.

- The applicants have submitted photomontages from three locations along Templeogue Road in response to the Planning Authority's request for Further Information. The applicants have also submitted a Visual Impact Assessment (VIA) in their appeal and based on the already submitted photomontages. The VIA concludes that permitted Block B effectively obscures Block A in either the consented or proposed scenario when viewed from the three points on Templeogue Road. It also concludes that visual effects deriving from the changes to Block A are not discernible from any other locations on Templeogue Road equating to a no-change situation in visual terms.
- I have assessed the three photomontages and note they are taken from a range of c. 100-120m in front of the site rather than from further distances away where views may also be visible. This is a questionable approach. Having walked and driven further distances along Templeogue Road in both directions I consider that the two additional floors will be visible in places, as will the already permitted development. In this context however, I consider these views would not detract from the existing streetscape to an undue degree.
- Having regard to National Policy Objectives of the NPF and the permitted development on site I consider the proposed addition of two floors set back in the least sensitive part of the site would respond well to the permitted built environment and would make a positive contribution through its transition from the existing urban neighbourhood and streetscape.

8.4.9. At the scale of the site/building

- The proposed development must be considered in the context of the permitted development. The siting of the two additional floors are clearly set

back to the least sensitive part of the site to reduce impacts on residential and visual amenity.

- Having considered the permitted development on site, the addition of two additional floors, the proposed heights and setback of the two floors, 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 and overall the development will not have a significant impact on the scale of the permitted building and site.

8.4.10. Specific Assessments

- Having regard to the sites location, I do not consider the addition of two floors as proposed will have a significant impact upon microclimate.
- The applicants have submitted an 'Ecological Note' concluding that the proposed development will not cause any significant negative impacts on habitats, birds, bats or other features of ecological importance. Having regard to the permitted development on site, the increase in height of c. 7.5m and its footprint, I do not consider the proposal will impact negatively on flight lines and or collision in this instance. Having regard to sections 6.5 and 8.11 of this report I am also satisfied there are no concerns in this regard.
- The applicants have submitted a Telecommunications Statement which has identified 5 existing telecommunications masts in the Vicinity. The statement states these are all at least 500m from the site and the proposed development will have no negative impact on existing Telecommunication Channels. Having reviewed the map accompanying the statement it appears to me that the 5 identified sites are all located within c. 350m of the site. Notwithstanding, this I do not see any evidence that the proposed additional floors will impact negatively on telecommunication channels in the area.
- The proposed development is not of a height that will impact upon air navigation.
- The application is accompanied by an Architects Report/Design Statement. This details that the proposal has been designed to have a minimal impact on height and envelope of the permitted scheme. It follows the original strategy of

setting back floors as the height increases. The buildings mass, materiality and architectural style remain unchanged from the permitted development.

- The site is not a Protected Structure and is not located within an Architectural Conservation Area. I do not consider the proposed addition of two floors will impact negatively upon the adjoining Z2 zoned Residential Neighbourhoods (Conservation Areas) or any historic built environment. The demolition of the existing house on site has already been permitted.

8.4.11. Conclusion

Having assessed the height, addition of two floors, the scale and overall design of the proposed development, in the context of the Urban Development and Building Heights Guidelines for Planning Authorities (2018), and in particular section 3.2, as well as the permitted development on site, 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. I have had particular regard to Section 3.1 of these Guidelines which state-

'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'.

The site is well served by existing and proposed public transport with high capacity, frequent services and good links to other modes of public transport. Accordingly the proposed addition of two floors to the already permitted development and its changes to the overall design are acceptable in this context.

8.5. **Density/Overdevelopment**

- 8.5.1. The third party appeal raises specific concerns over the increased density from the proposed development and not being in accordance with the Sustainable Residential Developments in Urban Areas Guidelines (SRDUA). I note the observers on the appeal also raise concerns in this regard and in relation to overdevelopment of the site.

- 8.5.2. The first party argue densities higher than 50 dwellings per hectare are in accordance with the recommendations of the Sustainable Residential Guidelines, given the sites location within an existing built up area that is well served by public transport.
- 8.5.3. National Policy Objective 35 of the National Planning Framework promotes increasing residential density in areas such as the subject site, through a range of measures including increased building heights. Policy SC13 of the DCC Development Plan also promotes sustainable densities particularly in public transport corridors.
- 8.5.4. The principle of apartment development and increased of density (over the existing area) has already been established at this site through the granting of planning permissions under 2707/17 which modified 2878/15 & ABP Ref. PL29S.245834. I calculate the current permitted density as 141 units per ha and the proposed density will be for 161 units per ha.
- 8.5.5. Under section 8.3 above, I have determined the site can be described as a 'Central and/or Accessible Urban Location' under the 2020 Apartment Guidelines which details that such locations are generally suitable for small to large scale and higher density developments. This specifically includes sites within easy walking distance to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services. The sites location on such services and a proposed Bus Connects network is also evident.
- 8.5.6. The 2009 Sustainable Residential Development in Urban Areas Guidelines (SRDUA) encourage more sustainable development through the promotion of higher densities in appropriate locations. Section 5.4 details 'Appropriate Location for Increased Densities' and paragraph (c) section 5.8 deals specifically with 'Public Transport Corridors'. This section discusses investment in public transport and in order to maximise the return on this investment, it is important that land use planning underpins the efficiency of public transport services by sustainable settlement patterns, including higher densities on lands within existing or planned transport corridors. The guidelines recommend increased densities should be promoted within 500 metres walking distance of bus stops and the capacity of public transport should also be taken into consideration. The guidelines detail minimum net densities of 50

dwellingings per ha should be applied within public transport corridors, with the highest densities being located at bus stops, and decreasing with distance away from such nodes. The site is located directly opposite an existing bus stop and c. 80m south west of another.

- 8.5.7. In relation to concerns raised of overdevelopment of the site, Section 8.3 of this assessment demonstrates that the proposed development complies with all requirements such as apartment floor areas, private amenity space and communal amenity space. The applicants have indicated they propose a plot ratio of 0.78 and site coverage of 45% which is in accordance with the requirements of section 16.5 and 16.6 of the Development Plan.
- 8.5.8. Having regard to the above Guidelines, the site's permitted density, the site's immediate proximity to bus stops, the proposed Bus Connects route along Templeogue Road, measures for managing overdevelopment, I consider the proposed density is acceptable for the site and the development would not represent overdevelopment of the site.

8.6. Residential Amenity

- 8.6.1. The Planning Authority have raised some concerns in relation to residential amenity including overbearing, overlooking and overshadowing. These issues were generally addressed through a request for further information including the submission of a shadow analysis indicating the impact of the proposed development on adjoining dwellingings and their gardens. Condition 4 (a) omitted the fifth floor due to overbearance. Condition 4 (b) and (c) also required some minor elevational changes.
- 8.6.2. The third party appeal raises significant concerns in relation to residential amenity and most notably the impacts on No's 81 and 83 from overshadowing and visual obtrusiveness. The appeal provides comparative shadow studies for May to September for west evening light, comparing the previously approved four storey scheme and the recently approved 5 storey development. The appellant also considers the monolithic brick facades would impose an oppressive and unacceptable intrusion to existing residential amenity and quality of light that would have a disproportionate and detrimental effect in terms of the existing context and

the amenity of existing family homes. I note observers have considered overlooking a concern.

- 8.6.3. In response to the third party appeal the applicants contend the proposed development has been carefully considered to avoid significant adverse effects on the amenity of adjoining property.
- 8.6.4. In order to consider residential amenity the proposed development must be considered in the context of the already permitted development on site. Having inspected the site and assessed the drawings it is considered that that the properties at No.'s 81, 83, 87 and 89 Templeogue Road could be consider at risk of residential amenity impacts.
- 8.6.5. Overshadowing- I have reviewed the Daylight and Sunlight Assessment submitted by the applicants in response to a request for further information. I have also reviewed the Comparative Study submitted by the third party appellants in their appeal. The proposed development is set back to the northern part of the permitted development and c. 25m - c.31m from the south eastern boundary of the site adjoining the rear gardens of houses No. 81 and 83 Templeogue Road. It will also be setback c.7m – c. 13.5m from the south western boundary to the rear garden area with No. 87 Templeogue Road and a further 10m approx. to No. 89. Having considered the siting of the proposed development and its orientation to neighbouring properties and private amenity spaces, I am satisfied the proposed development will not create significant additional overshadowing to that of the already permitted development which has already been deemed acceptable.
- 8.6.6. Overlooking- The application proposes no windows along the part of the permitted and proposed building located to the rear of No. 81 and 83 Templeogue Road. There are also no private amenity spaces on this elevation. Following a request for further information the applicants have proposed high level windows to the fourth floor on the elevation facing over the rear gardens of No's 87 and 89 Templeogue Road. The fifth floor is set back sufficiently from this boundary to ensure there will be no undue overlooking.

The application also proposes a fifth floor communal terrace of 73.5 sq.m. At FI stage the Planning Authority requested a 1.8m screen on the southern elevation of the proposed fifth floor balcony of apartment No A44. In response to the FI the

applicants appear to have shown this to the southern elevation of the proposed roof terrace. Given the nature of the proposed roof terrace, potential use and its proximity to the private amenity space of houses No. 81, 83 and 87 Templeogue Road, I consider it appropriate that all boundaries of the fifth floor roof terrace be enclosed with a 1.8 high obscure screening. This can be addressed by condition.

Overall I am satisfied that the proposed development will not lead to undue overlooking of adjoining properties.

Overbearance

As addressed in section 8.4.8 above the permitted and proposed contiguous elevation drawings show how the permitted and proposed development steps up from a south east to north west direction from single storey to six storey. This will create a built transition from existing houses on Templeogue Road. The gradual stepping up from the rear of No 81 and 83 breaks up the elevation avoiding a monolithic and uninterrupted building walls. In my opinion and having particular regard to the permission already granted, the addition of two floors set back to the rear of the site would not be unduly visually obtrusive or overbearing when viewed from the rear of No. 81 and 83 Templeogue Road.

Conclusion

Overall, and having considered the 2020 Apartment Guidelines and the 2018 Urban Development and Building Heights Guidelines for Planning Authorities I consider the proposed modifications to the permitted development will not significantly impact upon residential amenities in the area.

8.7. Visual Amenity

- 8.7.1. The Planning Authority have omitted the fifth floor and two apartments through condition 4 (a) of their grant of permission and the reason given states in the interests of visual amenity. The planners report cites two additional floors as excessive and would be unduly overbearing and visually obtrusive when viewed from surrounding properties. The addition of the fourth floor has however been deemed acceptable.

- 8.7.2. The third party appeal raises concerns over visual amenity and note the reliance of screening from trees, one of which is no longer in situ and the monolithic appearance of the development from the rear of existing houses. Observers to the appeal also express similar concerns noting the general character of the area.
- 8.7.3. The first party detail that in order to achieve the maximum retention of existing trees the proposal reduces the basement floor area by 29 sq.m to 1,764 sq.m to protect tree protection zones on the western and northern boundaries and to facilitate new tree planting in the area. Retained trees and proposed planting are to screen the development from adjacent properties and mitigates against potential visual impact.
- 8.7.4. In order to consider visual amenity the proposed development must be considered in the context of the already permitted development on site as well as the existing context on Templeogue Road where the majority of property are two storey houses fronting the road. I am satisfied the permitted two houses and Block B located to the front of the site will effectively screen views of Block A from the front of the site on Templeogue Road.
- 8.7.5. Having inspected the site from along Templeogue Road and within the sportsground to the rear I agree with the applicants that the proposal is to the least sensitive part of the site. However, I consider views of the development will be possible in places along Templeogue Road but these will generally be intermittent in places and will not in my opinion detract unduly from the permitted development in the existing streetscape.
- 8.7.6. The proposal provides an increase in height from an already permitted 14.1m to 21.6m and a stated additional 710 sq.m over the fourth and fifth floors of Block A. These floors are set back to the rear of the site, away from the Templeogue Road and close to the northern boundary which adjoins the sportsground.
- 8.7.7. In my opinion the impact of the permitted development and that of the proposed development will be most visually prominent from within the sportsground where the highest part of the proposed building will be c 2.7m from the north western boundary. In this context I do not consider this will have a negative visual impact.
- 8.7.8. I acknowledge concerns raised in relation to the applicants reliance on a tree along the northern boundary that no longer exists. However this must be balanced with the

fact that this tree and the remaining standing tree do not appear to be located within the application site or the applicants control.

- 8.7.9. I acknowledge there will be a visual impact from the proposed modifications which are setback c. 25m to c. 31m from the south eastern boundary of the site adjoining the rear gardens of houses No. 81 and 83 Templeogue Road. I refer to the submitted Landscape Plan and note the applicants have proposed 5 trees to be planted along this boundary. I am satisfied that the separation distances and proposed landscaping is sufficient to mitigate this visual impact.
- 8.7.10. Having considered the Urban Development and Building Heights Guidelines for Planning Authorities (2018), the permitted development on site, the location of the proposed development to the least sensitive part of the site adjoining the sportsground, the nature of views from Templeogue Road to the area of the proposed development, I am satisfied the addition of two floors as proposed will not be visually obtrusive nor have a negative visual impact that would warrant the refusal of the development or the omission of either floor.

8.8. Traffic, Roads and Car Parking.

- 8.8.1. The permitted development on site provides for 39 residential units and 56 number car parking spaces – 4 at surface level and 52 basement spaces. The permitted development also provides for the site entrance and in this regard I am satisfied the matter of traffic turning manoeuvres into or from the site including sightlines and stopping sight distances have been adequately addressed by the granting of ABP Ref. PL29S.245834.
- 8.8.2. The proposed development provides for 16 additional residential units and does not provide for any additional car parking spaces. Section 16.38, Table 16.1 and Map J Area 3 / Zone 3 of the Dublin City Development Plan, determine that a maximum of 1.5 car parking spaces are required for each unit or a maximum of 83 spaces.
- 8.8.3. The Planning Authority's Transportation Division have raised no concerns in relation to the number of spaces being provided and condition 5 (b) requires one space to be permanently allocated to each unit. The applicants have not appealed this.

- 8.8.4. Section 4.19 of the 2020 Apartment Guidelines detail that the default policy for 'Central and/or Accessible Urban Locations' is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.
- 8.8.5. The provision of no additional car parking spaces is considered acceptable in this context and as such the proposed development cannot be considered to create traffic congestion or traffic hazards in the area as the development provides no capacity for additional traffic movements. Conditioning one dedicated space per unit is appropriate and can address potential concerns of overspill parking in other areas.

8.9. **Flooding**

- 8.9.1. Condition 6 (b) of the Planning Authority's decision requires a revised flood risk assessment addressing potential flood risks to the basement at construction stage and when the basement is developed. The subject application propose minor changes to the permitted development at basement level i.e. the reduction of 29 sq.m.
- 8.9.2. The site is located c. 370 m north west of the River Dodder. 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 can be identified within Site: 12. Dodder: Dundrum Road – Bushy Park Boundary. The site is within Flood Zone C and the proposed development is minor in this context. I am satisfied the proposal will not have significant flooding issues and a revised flood risk assessment is not required.

8.10. **Other Matters**

- The Observations on the appeal refer to the Boards decision under ABP-303996-19 where permission was refused for a six storey 21m high apartment development. I have reviewed that application and the Board's decision and it is my opinion that the context of the site and application are not directly comparable to the subject site and its application which are for modifications to an already permitted development.
- Conditions 4 (b) and (c) of the Planning Authority's decision require the windows on the south elevation to Apartment A39 and its lobby to be

amended to high level windows only and with the lobby glazed. The drawings submitted at FI stage show the three window as high level windows. In my opinion it is therefore not necessary for these windows to be conditioned and for the lobby window to be obscured given its function.

- The permitted development on site proposes connecting to the existing public sewer and water supply. In this regard the proposed modifications are a minor change that will not create significant demand or loading and as such I have no concerns in relation to connecting to public services.

8.11. **Appropriate Assessment**

8.11.1. Having regard to the nature and scale of the proposed development i.e. modifications to an already permitted apartment development of 39 dwelling units, the proposed increase of 16 No. apartments, the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

9.0 **Recommendation**

9.1. I recommend that permission is granted subject to the following conditions-

10.0 **Reasons and Considerations**

Having regard to the provisions of-

- the National Planning Framework and in particular National Policy Objectives 11, 13 and 35,
- the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DHLGH, 2020),
- the Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG, 2018) and in particular Specific Planning Policy Requirement 3A

- the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) Sustainable Residential Development in Urban Areas Guidelines (DEHLG, 2009)
- and the provisions of the Dublin City Development Plan 2016 - 2022,

it is considered that, the modifications proposed to an already permitted development, the sites close proximity to existing and proposed public transport links and subject to compliance with the conditions set out below, the proposed development, would represent an acceptable height and density for the site, would be acceptable in terms of the residential amenities of adjoining properties and of future occupants, would not seriously injure the visual amenities of the area and would be acceptable in terms of road safety. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 22nd day of September 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The developer shall comply with all conditions of the parent application Reg. Ref.: 2878/15 & ABP Ref. PL29S.245834 as subsequently amended under Reg. Ref.: 2707/17 save for amendments made by this application.

Reason: In the interest of clarity.

3. The proposed development shall be amended as follows:

- (a) The proposed roof terrace at the fifth floor of block A shall be enclosed on all open boundaries by a 1.8m obscure screening.

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

Reason: In the interest of residential amenity.

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

Reason: In the interest of visual amenity.

5. A Building Lifecycle Report in accordance with section 6.13 of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DHLGH 2020) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of orderly development.

6.

- a. One car parking space shall be permanently allocated to each residential unit and numbered as such. Car parking spaces shall not be sold, rented or otherwise sub-let or leased.
- b. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be

submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: In the interest of orderly development and to provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

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

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

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

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

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

Reason: In the interests of amenity and public safety.

10. Drainage arrangements shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to commencement of development

Reason: In the interest of public health

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

Reason: In the interest of public health.

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

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

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

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

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

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

15. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Adrian Ormsby
Planning Inspector

09th March 2021