



An
Bord
Pleanála

Inspector's Report ABP-308703-20.

Development	Demolish existing derelict structures (former industrial units) and construct 10 storey apartment block comprising 42 apartments.
Location	Corner site (known as Lawlor's Corner) at the junction of Summer Street South and Marrowbone Lane, encompassing 3 Summer Street South, Dublin 8, D08 XV2K.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	3244/20.
Applicant(s)	Satinash Developments Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Satinash Developments Limited.
Observer(s)	Marrowbonelane Tenants Association.
Date of Site Inspection	18/02/2021.
Inspector	A. Considine.

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	5
3.0 Planning Authority Decision	8
3.1. Decision	8
3.2. Planning Authority Reports	9
4.0 Planning History.....	16
5.0 Policy and Context.....	17
5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018.....	17
5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):.....	18
5.3. Sustainable Urban Housing, Design Standards for New Apartments,..... Guidelines for Planning Authorities, (DoHPLG, 2018):.....	19
5.4. Urban Development and Building Heights Guidelines for Planning..... Authorities December 2018.....	20
5.5. Development Plan.....	21
5.6. Other Policy & Guidance Documents.....	24
5.7. Natural Heritage Designations	24
5.8. EIA Screening	25
6.0 The Appeal	26
6.1. Grounds of Appeal	26
6.2. Planning Authority Response	32
6.3. Observations	32
7.0 Planning Assessment	33
7.1. Introduction	33

7.2. Assessment.....	35
7.3. Principle of the development.....	35
7.4. Compliance with National Guidelines & Standards:	37
7.5. Visual & Residential Amenity Impacts.....	48
7.6. Impacts on Heritage & Archaeology.....	51
7.7. Roads & Traffic	55
7.8. Other Issues.....	56
7.9. Water Services.....	56
7.10. Appropriate Assessment.....	58
8.0 Recommendation.....	60
9.0 Reasons and Considerations.....	60

1.0 Site Location and Description

- 1.1. The subject site is located approximately 1.8km to the south west of Dublin City Centre and to the south of the R804, Marrowbone Lane. St. Stephens Green and Iveagh Gardens lie approximately 1.5km to the east of the site of the site. St. James's Hospital and St. Patrick's Hospital lie approximately 0.6km to the west and north west of the site while St. James's Gate is located within the same range, to the north of the site.
- 1.2. The site occupies a corner site with frontage onto Marrowbone Lane to the north and Summer Street South to the east. This area of the Liberties includes a variety of uses including 1950s concrete built, local authority apartment blocks, rising to 5 storeys to the north east, east and south east. Further apartment developments are located to the north of the site, including the 4 storey Marrowbone Lane Flats, which are finished in red brick. To the south of the site, the houses along Summer Street South and into John Street South comprise terraced houses and cottages rising to two storeys in height.
- 1.3. To the west of the site, the Dublin City Council Area Office rises to 5 storeys in height with a sixth floor set back. Eblana House also includes car parking located to the rear with the vehicular access located immediately adjacent to the subject site. Additional buildings in the vicinity of the site include two storey industrial / warehousing to the south, including the associated yards.
- 1.4. The site itself, is bound on all sides by a high wall, with a vehicular access located onto Summer Street South. There is a pedestrian access and an arched vehicular access located onto Marrowbone Lane. The existing site includes three buildings which are to be demolished to accommodate the proposed development. These vacant and semi-derelict buildings rise to one and two storeys and I noted on the date of my site inspection and each of these red brick building includes chimneys, indicating their original residential use.
- 1.5. The site, which occupies a prominent corner position, has a stated area of 0.0502ha and the existing buildings on the site occupies a floor area of 220m². While the existing buildings form part of the residential and industrial heritage of the Liberties area of Dublin City, none are protected structures.

2.0 Proposed Development

2.1. Permission is sought, as per the public notices for a development comprising the following:

- (i) demolition of existing derelict structures comprising 1 no. two-storey and 2 no. single storey former industrial units and removal of existing boundary walls on site;
- (ii) construction of a 10-storey apartment block comprising 42 no. residential units (17 no. one-bed and 25 no. two-bed) with each unit being served by private amenity space and having access to a communal roof terrace/garden (263 sqm). The apartment block includes 104 no. bicycle spaces, concierge area (49 sqm), bin store (82 sqm), substation, switch room, tanks/pumps at ground floor level; 42 no. storage lockers (75.5 sqm) at first floor level; and additional plant at roof level; and
- (iii) All ancillary works including landscaping, lighting and engineering works necessary to facilitate the development,

all at Corner site (known as Lawlor's Corner) at the junction of Summer Street South and Marrowbone Lane, encompassing 3 Summer Street South, Dublin 8, D08 XV2K

2.2. The application included a number of supporting documents including as follows;

- Plans, particulars and completed planning application form
- Planning Report
- Screening for Appropriate Assessment -
The report, prepared by NM Ecology Ltd., Consultant Ecologists, identifies 2 Natura 2000 sites within the potential zone of influence of the proposed development. The Screening for AA report demonstrates that there will be no risk of direct or indirect impacts on any Natura 2000 sites, and it is concluded that AA is not required.
- Letters of consent from landowners -
2 letters submitted.

- Architectural Design Statement -

The report, prepared by Create Architecture Ltd. to accompany the planning application for the Build to Rent residential development, provides an assessment and evaluation of the site's physical context, before exploring the design principles and concepts that have been applied to the scheme. The statement notes the context of the site and the current vacant brownfield nature of same. The document sets out the design elements of the development including the internal spaces of the apartments. Communal open space is proposed in the form of a roof terrace.

In terms of the scale and massing, it is submitted that the building is intentionally higher than the adjacent office development to act as a bookend to the corner of Marrowbone Lane and Summer Street South. The final design evolved following consultation with Dublin City Council. The proposal looks to sit in context with, and sympathetically along-side, the older 4 and 5 storey apartment blocks designed by Herbert Simms, and provide a modern development in terms of scale, massing and density. The proposed elevational treatment and materials choice have been influenced by existing development in the vicinity but does not seek to replicate or create a pastiche development.

The report also submits a materials pallet and deals with universal access to the development.

- Traffic & Transport Assessment -

A Traffic & Transportation Assessment was prepared by Curtins Consulting Engineers on behalf of the applicant. The document sets out the purpose of the development and it is structured in 6 sections dealing with the transport planning context, accessibility and receiving environment, transport characteristics of the development, the likely traffic impact when operational as well as during construction and a framework travel plan during the operational and construction phases.

The report notes that the development will consist of 42 apartments and will provide 72 secure bicycle parking spaces for residents and 20 visitors. No car parking is proposed within the proposed development and reference is made to National Apartment Guidelines which facilitates the elimination of car

parking spaces in larger scale and higher density developments comprising wholly of apartments in more central locations that are well served by public transport.

Section 5 of the document deals with Traffic Impact Assessment and considers proposed trip generation, road network impact assessment, public transport impact assessment and an assessment of the construction phase. Section 6 deals with the Mobility Management Plan.

- Sunlight Shadow Assessment -

The assessment, prepared by CSC Chris Shackleton Consulting submits that neighbouring properties will not be affected by the proposed development in relation to shadow impact as tested in accordance with best practice guidelines. The neighbouring shared amenity space tested, passed the BRE requirements relating to the area receiving 2 hours of sunlight on the 21st of March > 50% or not breaching the 0.8 times its former value limit.

- Flood Risk Assessment -

The report, prepared by Curtins Consulting Engineers, notes that the proposed use is considered a 'Highly Vulnerable' development and notes that the site is located within a Flood Zone C. Therefore, it does not require flood prevention measures and as no flooding has been identified within 200m of the site, even in the worst-case scenario, the justification test is not needed. No mitigation measures are required with regard to fluvial, tidal or surface water flood.

Section 6.2 of the FRA indicates that the groundwater flood risk is currently unknown due to lack of site-specific groundwater levels. It is recommended that groundwater levels are monitored during ground investigation works and proposed floor levels to be based on the results of the monitoring over a 3-month period. It is noted that the development will not increase flood risk as a result of the works.

- Infrastructure Report -

The report, prepared by Curtins Consulting Engineers, deals with the proposed civil aspects required for the proposed development. It includes information on connecting the development to the existing public infrastructure in the area.

It is proposed to construct a new, separate surface water drainage systems for the site with a pipe diameter of Ø225mm which will be tied into the overflow pipe on Summer St. South. No attenuation is required, and the use of green roofs will reduce the surface water runoff from hardstanding areas. The new foul network will have a Ø100mm foul sewer with a gradient of 1/40 and will connect to the existing Ø300 foul sewer on Summer St. South. The development will be served by a new Ø100mm uPVC watermain.

- **Surface Water & Foul Calculations Report -**
The report, prepared by Curtins Consulting Engineers, describes the surface water drainage design and foul drainage design philosophy in support of the development of the proposed development. The pipe network design was informed using the Windes 'Microdrainage' (UK Version) surface water modelling software programme. The conclusions of the report note that the proposed surface water drainage network and the foul drainage network have adequate capacity to convey the design flows.
- **Landscape Proposal -**
The landscape proposal was prepared by G+A Gannon & Associates and provides details of the proposed design of the roof garden, ground floor level planting and the balconies.
- **3D views & Photomontages**
- **Landscape layouts**

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following 3 stated reasons:

1. Having regard to the Z14 Land-use Zoning Objective for the site and to the requirements of SDRA 16 Liberties and Newmarket Square, it is considered that the proposal which comprises entirely residential development would undermine the vitality and viability of the area. The development would

therefore be contrary to the provisions of the Dublin City Development Plan 2016-2022 and be contrary to the proper planning and sustainable development of the area.

2. Having regard to the form, scale and mass of the proposed development and surrounding urban structure, it is considered that the proposal does not provide an appropriate transition in scale or have due regard to the nature of the surrounding urban morphology. The proposal is considered overly dominant, would appear overbearing and incongruous on the streetscape. Furthermore, it is considered that the proposal would have a negative impact on the development potential of adjoining property. The proposed development would therefore seriously injure the amenities of property in the vicinity and character of the area, would depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.
3. Having regard to Section 16.10.2 Residential Quality Standards as set out in Dublin City Development Plan 2016-2022 and Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, DoECLG, March 2018, it is considered that the proposed development would provide a substandard level of accommodation in terms of aspect and internal layout. It is therefore considered that the proposed development would result in an unacceptably low level of residential amenity for future occupants. The proposed development would therefore, by itself and by the precedent it would set for other development, be contrary to the Ministerial Guidelines – Quality Housing for Sustainable Communities, Guidelines for Planning Authorities, 2007, be contrary to the provisions of the Dublin City Development Plan 2016-2022 and be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party

submission, planning history and the Dublin City Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The planning report concludes that proposed development is not acceptable on the basis that the development as proposed does not comply with the land-use zoning objective or the development plan relating to SDRA 16 Liberties and Newmarket Square, which requires provision of new mixed uses onto Marrowbone Lane and Summer Street South to provide definition and activity onto the street. The report considers that the development would undermine the vitality and viability of the area and would result in a substandard level of accommodation and residential amenity for future occupants. The Planning Officer recommends that permission be refused for the proposed development, for reasons as detailed above in section 3.1 of this report.

This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

Drainage Division: No objection subject to compliance with conditions.

Housing Section: A Social Housing Exemption Certificate issued on the 14th September 2020 for the development.

City Archaeologist: Notes that the site is located within the Zone of Archaeological Constraint for the Recorded Monument DU018-020 (Dublin City) which is listed on the RMP and is subject to statutory protection. One recorded monument, DUB018-020328, being a House 18th / 19th Century, is identified to the immediate east of the site. The City Archaeologist notes the requirements of the DCC Development Plan which requires consultation prior to a planning application being lodged – CHC9.3. No consultation took place and no Archaeological Impact Assessment included with the application.

The site is one of archaeological potential. It is outside the boundary of the medieval city but within the precinct of the Priory of St. Thomas the Martyr (DU018-020051), which was

founded in 1177, and later becoming an Augustinian Abbey in 1190.

Recent excavations on Thomas Street highlighted the survival of subsurface features and excavations undertaken prior to the construction of the adjacent Eblana House to the immediate west of the site, uncovered a post-medieval tannery. Walls, cellars and industrial features are likely to survive at subsurface level within the proposed development area.

Further information is required.

Transportation Planning Division: The report required the submission of further information in relation to the following:

1. The proposed development has not sufficiently demonstrated specific measures to facilitate the elimination of car parking in this location.
2. The applicant is requested to review the proposed ground floor proposals to provide an improved pedestrian environment by providing a more permeable space or by providing a suitable set back near the corner of Marrowbone Lane and Summer Street South to facilitate pedestrian movements at the corner and near the existing pedestrian crossing.
3. The applicant is requested to clarify the boundary treatment and clarify if sufficient width is provided to allow movement of waste receptacles of various sizes from the proposed bin store to the temporary waste storage area or refuse vehicle.
4. The applicant should clarify by way of an updated plan drawing to demonstrate with the use of swept path analysis that a parked refuse vehicle on Marrowbone Lane would not impact on the operation of the existing mandatory cycle lane or pedestrian crossing.

3.2.3. Prescribed Bodies

An Taisce:

The report considers that there is a lack of information in the submitted plans and particulars on the existing site and buildings occupying it. The corner site consists of a single-storey house or cottage set back from Marrowbone Lane with front yard and boundary wall to the street. There are 3 further buildings within the site.

Given the intention to completely demolish, it is considered that a level of information would be required to establish the significance, history and evolution of this grouping of older buildings having regard to section 16.10.17 of the DCC Development Plan.

3.2.4. Elected Representatives

Cllr Tina MacVeigh submitted an observation with regard to the proposed development. The issues raised are summarised as follows:

- Design does not appear conducive to comfortable and sustainable living environment and the apartments seem to be at the absolute minimum standard.
- Aspect issues raised in terms of overlooking has resulted in the removal of all south facing windows, other than for stairwells.
- Height appears out of kilter with the streetscape and surrounding area.
- Character of the development is overbearing.
- In terms of the public domain, the on-street aspect and landscaping does not add anything to the community environment or amenity.
- Questions whether the development provides for disabled parking.
- Aside from the roof garden and bike / bin storage, there are no other communal spaces within the development, creating a crowded and dense living space especially as private amenity is a very small balcony.

3.2.5. **Third Party Submissions**

There are 5 no. third party objections/submissions noted on the planning authority file. The issues raised are summarised as follows:

1. Marrowbonelane Tenants Association

- Residents are shocked at the proposal for a 10 storey block as proposed.
- There are far too many student and single accommodation units in the Liberties.
- The objection is on the grounds of co-living and not delivering social housing for the people of the area's children to stay within their community.
- Local people and their homes are invisible to planners.
- The Liberties is being destroyed for the economic benefits of prime land in the South Inner City.
- It is not fair that the Marrowbown Lane Flat Complex will be sandwiched between the Guinness Development and Lawlor's Yard.
- South Summer Street and Braithwaith Street are impacted daily as both serve builders and groups of workers who come to work in the Liberties every day.
- Double parking on both sides of the road impedes children's play and will cause an accident.

This objection has approximately 200 signatures.

2. Residents of School Street & Thomas Court Bawn and Marrowbone Lane Residents

- The height of ten storeys is far too high for this area. The building will be visually overbearing and incongruous within the existing urban context.
- The development will create overlooking of the private and semi-private areas of the Dublin City Council residential blocks on the surrounding roads.
- The height will overshadow residential blocks and will reduce daylight in existing residences.
- The excessive height will create a precedent.

- Co-living is not suitable for this area.
- The development does not comply with the Z6 zoning in the Development Plan.
- The proposal seeks to exploit the need for dwellings without consideration of the local neighbourhood and would be contrary to the proper planning and sustainable development of the area.
- There has been no interaction with the local community.

3. Brona Ni Chobhthaigh

- No objection in principle to the redevelopment of the site or to densification of development, the development is not in accordance with local developments and would overlook and overshadow existing buildings and dwellings.
- The area is a high density residential area and there is already significant pressure on local infrastructure and amenities including waste services, littering, illegal dumping, water services and drainage, electricity surges and blackouts. Existing services need to be developed to address the existing current demand.
- Significant pressure on available car-parking and will generate increase traffic congestion.
- The purpose of the Strategic Development Regeneration Areas plans and SDRA 16 Liberties and Newmarket Square, was to ensure that in developing local land parcels, opportunities for regenerating the area in an integrated fashion were not missed.
- There are currently 4 very large sites under development within 75m of the proposed site. It appears that any strategic vision for the area has been lost and the focus has moved towards assessing each application on an individual basis, rather than being reflected on as part of an overarching vision to make-up a real live local area and community.
- The broader implications of increasing population numbers and density in an area which is already high-density, and has a lack of green space and

recreational space in the context of the current global pandemic, needs to be considered.

4. Rita Fagan

- Far too many private student accommodation developments being built in the Dublin 8 area and no social housing being prioritised to allow a balanced and necessary mix.
- Height of building is too high, will impact on light for existing homes, will overlook and be overbearing.
- Lack of open spaces.
- Issues raised in terms of the area being a building site for the past 6 years with developers and builders showing little respect for existing residents.

5. Residents of St. Margaret's Avenue

- The residents welcome investment and development for the betterment of the area in principle. The proposed development however, will significantly alter the streetscape of the area and set a precedent for building height not echoed in the immediate vicinity.
- Cites PA ref: 4795/19 where permission was refused as the development was not in keeping with the area.
- Key areas of concern include;
 - The nature of the proposed use is unclear. The previous application on the site, PA ref. 3070/20, was deemed invalid as it did not address how the development would comply with social and affordable housing requirements. There remains no clear answer in the current application and the current application is near 100% the same as the previous co-living development, but now is proposed as build-to-rent apartments. Concern is raised that the area is rapidly developing into a space where transient living, student accommodation, co-living, tourist accommodation etc is very prominent.
 - The building height precedent and the fact that the applicant did not accept the advice of the planner in terms of height. References to other areas of

Dublin City in terms of height are not comparable. The permitted height of this development will set a precedent for the immediate area and there are two other sites in the area which the residents fear will be developed to similar densities and heights.

- Fit with the character of the area. It is submitted that the proposed design and height is not in keeping with the fabric, character and rhythm of the existing structures, particularly at this prominent location.
- Daylight. It is considered that the resulting design seems to provide light from the most prominent direction mainly to the stairwells rather than the living accommodation. Questions if this complies with guidance.

4.0 Planning History

There is no recent planning history pertaining to the subject site.

PA ref. 1531/02: Permission was refused to demolish a house and associated outhouses, and erect a new 4 storey plus penthouse comprising of ground floor retail use (174.2m²) plus 8 no. 2 bedroom apartments overhead at 72, Marrowbone Lane, Dublin 8. The reasons for refusal were as follows:

- 1) The proposed development of a four storey plus penthouse building would, by reason of its high levels of site coverage and layout, have a negative impact on the development potential of adjoining sites and therefore depreciate the value of property in the vicinity. The proposed development is therefore contrary to the proper planning and development of the area.
- 2) The proposed development, by reason of its inadequate provision of open space and failure to meet the requirements of the 1999 Dublin City Development Plan with respect to cycle parking and refuse storage provision would seriously injure the amenities of future occupants. The proposed development is therefore contrary to the proper planning and development of the area.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

- 5.1.1. The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. Objective 3b seeks to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford. Objective 11 favours development which can encourage more people to live or work in existing settlements while Objective 27 seeks to prioritise walking and cycling accessibility to existing and proposed development.
- 5.1.2. The NPF includes a Chapter, No. 6 entitled ‘People, Homes and Communities’. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:
- National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.
 - National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.
- 5.1.3. National Planning Objective 13 provides that “in urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

5.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):

5.2.1. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

5.2.2. The guidelines promote the principle of higher densities in urban areas as indicated in the preceding guidelines and it remains Government policy to promote sustainable patterns of urban settlement, particularly higher residential densities in locations which are, or will be, served by public transport under the *Transport 21* programme.

5.2.3. Section 5.6 of the guidelines suggest that there should be no upper limit on the number dwellings permitted that may be provided within any town or city centre site, subject to the following safeguards:

- compliance with the policies and standards of public and private open space adopted by development plans;
- avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours;
- good internal space standards of development;
- conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing;
- recognition of the desirability of preserving protected buildings and their settings and of preserving or enhancing the character or appearance of an Architectural Conservation Area; and
- compliance with plot ratio and site coverage standards adopted in development plans.

5.2.4. Section 5.7 deals with Brownfield lands and notes that where significant sites exist and, in particular, are close to existing or future public transport corridors, the opportunity for their re-development to higher densities, subject to the safeguards expressed above or in accordance with local area plans, should be promoted, as should the potential for car-free developments at these locations.

5.3. Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, (DoHPLG, 2018):

5.3.1. These statutory guidelines update and revise the 2015 Sustainable Urban Housing: Design Standards for New Apartments Guidelines. The objective is to build on the content of the 2015 apartment guidance and to update previous guidance in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government's action programme on housing and homelessness Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines. Aspects of previous apartment guidance have been amended and new areas addressed in order to:

- Enable a mix of apartment types that better reflects contemporary household formation and housing demand patterns and trends, particularly in urban areas;
- Make better provision for building refurbishment and small-scale urban infill schemes;
- Address the emerging 'build to rent' and 'shared accommodation' sectors; and
- Remove requirements for car-parking in certain circumstances where there are better mobility solutions and to reduce costs.

5.3.2. The guidelines identify specific planning policy requirements in terms of apartments and Development Plans dealing with the mix of unit sizes, while Chapter 3 deals with Apartment Design Standards, including studio apartments, orientation of buildings and dual aspect ratios, storage provision, private amenity spaces and security considerations. Chapter 4 deals with communal facilities, including car and bicycle parking.

5.3.3. Chapter 5 of the Apartment Guidelines deals with Build to Rent (BTR) and Shared Accommodation (SA) schemes. BTR schemes are defined as follows:

Purpose-built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord.

5.3.4. Specific Planning Policy Requirement (SPPR) 7 sets out the requirements for BTR developments. The subject proposed development, while referred to as a Build-to-Rent development in a number of documents, does not meet the criteria as set out in the Guidelines for such developments.

5.3.5. The primary aim of these guidelines is to promote sustainable urban housing, by ensuring that the design and layout of new apartments will provide satisfactory accommodation for a variety of household types and sizes – including families with children - over the medium to long term. These guidelines provide recommended minimum standards for:

- floor areas for different types of apartments,
- storage spaces,
- sizes for apartment balconies / patios, and
- room dimensions for certain rooms.

The appendix of the guidelines provides guidance in terms of recommended minimum floor areas and standards.

5.4. Urban Development and Building Heights Guidelines for Planning Authorities December 2018.

5.4.1. The guidelines encourage a more proactive and flexible approach in securing compact urban growth through a combination of both facilitating increased densities and heights, while also mindful of the quality of development and balancing the amenity and environmental considerations. Building height is identified as an important mechanism to delivering such compact urban growth and Specific Planning Policy Requirements (SPPRs) of the building height guidelines take precedence over any conflicting policies and objectives of the Dublin City Development Plan.

5.5. Development Plan

- 5.5.1. The Dublin City Development Plan 2016 – 2022, is the relevant policy document relating to the subject site. The site is zoned Zone Z6: Employment / Enterprise Zones in the Dublin City Development Plan 2016-2022 which seeks “To provide for the creation and protection of enterprise and facilitate opportunities for employment creation”. The lands to the north and east of the site are zoned R2, Zone Z1: Sustainable Residential Neighbourhoods in the Dublin City Development Plan 2016-2022 which seeks “To protect, provide and improve residential amenity”. To the immediate south, the lands are zoned Zone Z6: Employment / Enterprise Zones, while to the south west of the Zone Z6 lands, there is a large area of Zone Z9: Amenity / Open Space Lands / Green Network lands where it is the objective “To preserve, provide and improve recreational amenity and open space and green networks.”
- 5.5.2. The Board will note that under Variation (No. 6) of the Dublin City Development Plan 2016-2022, adopted on the 4th February 2019, this zoning was changed to Z14 – Strategic Development and Regeneration Areas (SDRAs). It is the stated objective of this zoning ‘to seek the social, economic and physical development and / or rejuvenation of an area with mixed use, of which residential and ‘Z6’ would be the prominent uses.’ The site is located within SDRA 16 – Liberties (including Newmarket and Digital Hub) and residential development is a permissible use.
- 5.5.3. In terms of Quality Housing and Sustainable Neighbourhoods, Section 2.3.3 of the Dublin City Development Plan 2016-2022 states that it is an objective of the council to create a quality compact city of mixed – tenure neighbourhoods, catering for a wide range of family types. The Development Plan also states that:
- ‘Requiring apartment schemes to have good local facilities, and that large schemes are phased to ensure support infrastructure is provided in tandem with residential development, will assist in achieving this key strategy. An emphasis on effective property management for both apartment and housing complexes will also improve the quality of residential development’.
- 5.5.4. Section 5.5.2 of the Dublin City Development Plan 2016-2022 encourages sustainable residential areas. The plan states that “building at higher densities makes more efficient use of land and energy resources, creating a consolidated

urban form which fosters the development of compact neighbourhoods and a critical mass which contributes to the viability of economic, social, and transport infrastructure”.

It is the stated policy of Dublin City Council, **QH12** refers:

‘To promote more sustainable development through energy end-use efficiency, increasing the use of renewable energy, and improved energy performance of all new development throughout the city by requiring planning applications to be supported by information indicating how the proposal has been designed in accordance with the development standards set out in the Development Plan.’

- 5.5.5. In terms of Building Height, Section 16.7.2 of the Development Plan sets out 3 no. height category limits for the city, Low-rise, Mid-rise and High-rise. The subject site is located within the Inner City which is an area listed within the low – rise (up to 28m commercial and up to 24m residential) height category. The site is also located within the Strategic Development and Regeneration Area – SDRA 16 – The Liberties (including the Digital Hub and New Market Square but is not located within LAP Key Development Areas within the SDRA. The CDP states, at Section 15.1.1.19:

Retaining the LAP objectives of open spaces, linkages, conservation, usage, public realm etc. are important to ensure that new development enhances the holistic physical, social, economic and environmental regeneration of this key part of the city.

- 5.5.6. The plan includes a number of policies in relation to building height as follows:

SC16: To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA).

SC17: To protect and enhance the skyline of the inner city, and to ensure that all proposals for mid-rise and taller buildings make a positive contribution to the urban character of the city, having regard to the criteria and principles set out in chapter 15 (guiding Principles) and Chapter 16 (development standards). In particular, all new proposals must demonstrate sensitivity to the

historic city centre, the river Liffey and quays, Trinity College, the cathedrals, Dublin Castle, the historic squares and the city canals, and to established residential areas, open recreation areas and civic spaces of local and citywide importance.

SC18: To promote a coordinated approach to the provision of tall buildings through local area plans, strategic development zones and the strategic development and regeneration areas principles, in order to prevent visual clutter or cumulative negative visual disruption of the skyline.”

- 5.5.7. In terms of Transportation and car parking, the site is located within Zone 1 which requires a maximum of 1 car parking space per dwelling. The Plan requires 1 cycle space per residential unit.
- 5.5.8. In terms of Development Standards, the following sections of the Plan area relevant:
- Section 16.3.4 – Public Open Space – All Development. There is a 10% requirement specifically for all residential schemes as set out in Section 16.10.1.
 - Section 16.5 - Plot ratio for Z6 Inner – Employment zoned lands is 2.0-3.0
 - Section 16.6 - Site Coverage 60%
- 5.5.9. The Liberties Local Area Plan 2009, and adopted again in April 2014, extended to May 2020, identifies that the site lies within Character Area 4 – Pimlico / Marrowbone Lane, and within a Significant Redevelopment Site. The area is characterised mainly by the several local authority apartment blocks built in the 1950s and a small section of brick Victorian / Edwardian houses built in terraces within an internal mews court, surrounded by cottages. It is generally considered that the large and bulky apartment blocks, which do not address the streets, do not blend in with the existing building typology of the two and three storey brick houses and cottages. The public open spaces lack trees and are poorly designed offering no security or overlooking and are generally unusable.
- 5.5.10. The Liberties Local Area Plan state that the key objectives for the area include:
- Create an exciting new park-side environment with active frontage around the library, park and square at Pimlico.

- Develop a new mixed-use mixed services facility to include healthcare services at Pimlico.
- Develop a new library, and sizable new park to accommodate a pitch and multitudes of recreation, and a new landscaped public square at Pimlico.
- Promote awareness of the new civic space by developing a multi-use, mixed services centre adjacent to the new park and public square.
- Refurbish the protected structures on Pimlico and at Pimlico Cottages.
- Improve pedestrian and vehicular connections from Pimlico to the Guinness Storehouse, Thomas Street, Meath Street and Cork Street.
- Develop a new urban block structure to replace the existing local authority housing at Braithwaite Street/Summer Street/Marrowbone Lane, School Street/Taylor's Lane and Meath Place/Earl Street.
- Create new pedestrian link to Cork Street through the Weir Garden and further south to Bru Chaoimhin and vehicular links to Marrowbone Lane along Allingham Street and Robert Street.
- Foster development of improved healthcare facilities at Bru Chaoimhin.

5.5.11. The site is identified as being located within the Pimlico significant development site area in the plan and a combination of uses is envisaged. In addition, building heights of between 4 – 6 storeys are set in the LAP and the site is identified as providing a moderately active frontage. (pg 155 refers).

5.6. Other Policy & Guidance Documents

- Greater Dublin Regional Code of Practice for Drainage Works Version 6.0.
- DEHLG and OPW Guidance 'The Planning System and Flood Risk Management – Guidelines for Planning Authorities' (2009).

5.7. Natural Heritage Designations

5.7.1. The site is an urban brownfield site and is not located within any designated site. The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(site code 00210) and the South Dublin Bay and

River Tolka Estuary SPA (site code 004024) which are located approx. 4.1km to the north east of the site. The North Dublin Bay SAC (& pNHA)(Site Code 000206), and North Bull Island SPA (Site Code 004006) lies approximately 7.5km to the east.

5.7.2. The Grand Canal pNHA (Site Code 002104) lies approximately 1.1km to the south and the Royal Canal pNHA (Site Code 002103) 2.7km to the north.

5.8. EIA Screening

5.8.1. The application was submitted to the Board after the 1st September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.

5.8.2. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

(In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.8.3. The proposed development comprises 42 residential units in the form of 17 no. 1 bed and 25 no. 2 bed apartments in one block on a site of 0.0502ha. The site is located in an urban area that may come within the above definition of a “business district” but is below the threshold of 2 ha for such a location. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.

5.8.4. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a

screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

Having regard to nature and scale of the development, together with the urban / built nature of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. This is a first party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The Board will note that as part of the appeal, the applicant submitted revised proposals and additional reports to support the proposed development. In this regard, the proposed development now being submitted for the consideration of the Board has been amended as follows:

- Relocation at ground floor level of back of house facilities (substation, switch room, cycle storage, tanks, etc) to provide active frontages onto Summer Street South and Marrowbone Lane;
- Provision of a community hub at ground floor of 75m² and at first floor level of 88m² providing for a total of 163m² of community facilities for use not only by residents but also by the wider public;
- Omission of 2 no. apartments at first floor level to accommodate the proposed community hub providing for 40 no. residential units (16 no. one-bed and 24 no. two-bed units) in lieu of the previously proposed 42 no. units;
- Revisions to elevations to address concerns of the Planning Authority.

The appeal includes the following documents:

- Planning Appeal Statement prepared by Hughes Planning & Development Consultancy)

- Revised Architectural Plans including elevations, photomontages and Design Statement prepared by Create Architecture
- Skylight, Sunlight and Shadow Assessment Report prepared by Chris Shackleton Consulting
- Engineering Technical Note prepared by Curtins Engineering
- Archaeological Impact Assessment and Building Survey Reports prepared by Archer Heritage.

6.1.2. The appeal document includes an introduction to the development, submitting that the original proposal should not have been refused permission on the basis of concern with the number of dual aspect units / internal daylight to each unit. It is further submitted that the Council did not provide a rationale or comprehensible justification in their decision to refuse permission for the proposed development. It is requested that the Board set aside the City Councils decision and grant permission for the proposed development.

6.1.3. The revised design includes a Community Hub and takes into account the proposed public park at Bridgefoot Street. The revised design also provides for an increase in the number of dual aspect units through the incorporation of additional windows on the western and southern elevations, ensuring that each apartment meets or exceeds the requirements for internal daylight. The additional windows are scaled and positioned so as to protect the development potential of adjoining sites to the south and west.

6.1.4. The issues raised are summarised as follows:

- The revisions to the ground and first floors ensure an active frontage to both Marrowbone Lane and Summer Street South. A community / residents hub is now proposed at ground floor level to ensure the integration of this proposal into the surrounding residential community.
- A precedent for increased heights in The Liberties has already been established and the Scheme maximises the potential of an infill site within the City Centre.
- The proposal is consistent with the requirements set out in Design Standards of New Apartments – Guidelines for Planning Authorities (2018). The

alterations to the proposal as submitted have increased the number of dual aspect units provided. The internal areas in each apartment are wholly compliant with the requirements of the aforementioned guidelines.

- Chris Shackleton Consulting have prepared a daylight study which accompanies the appeal which demonstrates that each of the apartments meet the requirements for access to daylight.
- Pre-planning correspondence took place with a number of members of Dublin City Council. The application responded appropriately to the pre-planning advice received.
- Archer Heritage Planning have prepared an archaeological desk-based study to determine the history and evolution of the older buildings to be demolished on site.

6.1.5. Reason for Refusal 1:

- The site is located within a regeneration area and it is an objective of the applicant to provide a high level of residential accommodation with ancillary Community Hub and residential facilities.
- The Council has failed to consider the importance of developing vacant sites within regeneration areas. The development would provide for an active use in a prime location and the Community Hub at ground and first floor level ensures an active frontage.
- The revised ground floor layout addresses the concerns of the PA in relation to active uses at ground floor level.
- The proposed Community Hub is in accordance with Section 5.5.6 of the Dublin City Development Plan.
- The double height entrance has been designed and landscaped under the influence of the proposed public part at Bridgefoot Street and the development has taken into consideration the existing character and future development within The Liberties.
- Utilities have been relocated within the ground and first floors to ensure active frontages onto Marrowbone Lane and Summer Street South.

- The proposed development provides for an appropriate development in accordance with the Z14 land use zoning objective with both community facilities and residential development permitted in principle.

It is submitted that the development as submitted to the Board for consideration addresses the reason for refusal as set out in the reason for refusal 1.

6.1.6. Reason for Refusal 2:

- The applicant strongly objects to the reason for refusal 2 with regards to the Council's statement that the form, scale and mass of the proposed development is such that it does not provide an appropriate transition in scale or have due regard to the surrounding urban morphology.
- The development has been internationally designed after careful consideration by the design team and it is proposed at a scale to reflect the urban character and setting with consideration of national policies and guidance.
- The development positively assists in securing the NPF objectives.
- The concerns of scale and transition are contested. The majority of residential structures in the area are 4 to 5 storeys and immediately to the west, there is a 6 storey commercial building. The commercial building includes commercial storey heights and accordingly is taller than a residential development. The proposed development therefore sits only 2 storeys higher than the adjacent office building.
- The adjacent Dublin City Council building is 21.7m in height, the Guinness Enterprise Centre to the north is 22.2m in height and the proposed development, at 34.6m in height is justified through the site location within a regeneration area. The transition is considered appropriate.
- The lands to the south of the site, on Summer Street South, comprise vacant buildings that will be subject to future redevelopment. It is considered that the scale of the development on the corner site is appropriate and that future development to the south will reduce in scale.

The appeal includes details of a number of permitted developments in The Liberties and other areas of Dublin City where higher buildings have been permitted, including

the 22 storey building at Tara House, permitted by An Bord Pleanala, the 15 storey building at Boland's Mills, Ringsend and the 17 storeys of the Exo Building at the Point Village District Centre. In this regard, it is submitted that the City Council and An Bord Pleanala support the development of taller buildings within the City Centre.

6.1.7. Reason for Refusal 3:

- The appeal provides a detailed breakdown of how the proposal is wholly compliant with the residential quality standards set out in the Dublin City Development Plan and national apartment guidelines.
- Additional windows have been included in the alternative design option provided for consideration by the Board. No changes have been made to the spatial requirements of the proposal.
- A Daylight/Sunlight Assessment is submitted. It is noted that the development generally complies with the requirements of BRE guidelines in relation to Sunlight availability.
- Existing buildings in the vicinity contribute to the limited sunlight in some instances but from the fourth to ninth floors, the percentage pass increases to 80% APSH/WPSH which is in accordance with the guidelines example of 'careful layout' design 80%. A change in design, height, scale or massing would result in identical sunlight provision due to the surrounding context.
- In terms of the issues raised by the PA relating to dual aspect units, an alternative design option has been submitted for consideration by the Board.
- Due to the restricted nature and orientation of the site, the proposal aims to maximise the amount of daylight entering each apartment while protecting the amenity of the adjoining sites and residential developments in proximity.
- In relation to concerns that units did not meet the minimum requirements for new apartments set out in the guidelines, the floor plans have been updated to include furniture models to indicate how each room can be adequately furnished. The floor areas remain unchanged.
- Details of compliance with the guidelines have been submitted in relation to dual aspect ratio, minimum floor area, bicycle parking, bedroom floor areas, storage requirements and private amenity space.

It is submitted that the proposed development provides for a high standard of accommodation with all units exceeding room standards and standards for amenity as set out in the City Development Plan and national guidelines.

- 6.1.8. The appellant noted the concerns raised by the Planning Officer in relation to the archaeology of the site and while not included as a reason for refusal, the appeal submission also includes an Archaeological Study. It is noted that the study is a desk top assessment, and the report recommends that the site be subject to further archaeological assessment in the form of archaeological testing, under licence, in advance of any construction works.
- 6.1.9. Section 9 of the appeal submission deals with pre-planning consultation history with Dublin City Council. While the Planning Officer stated in their report that 'no pre-planning advice took place in relation to this application', it is submitted that there have been extensive and ongoing communications in relation to the subject site, from March 2019. The height of the proposed development was reduced from 11 storeys to 10 storeys to respond to the concerns of the Council. Due to the small footprint of the site, it is submitted that a commercial use would not be viable. Other issues raised at pre-planning stage included overlooking / windows / adjoining sites, location of bin storage and cycle areas and private / communal amenity space.
- 6.1.10. The appeal concludes that the proposed development presents a high level of amenity and design and is an appropriate response to the site in terms of scale and design. It is further noted that upon completion, an approved housing association will occupy the building in order to provide affordable housing in the area. It is requested that the Board overturn the decision of Dublin City Council and grant planning permission for the proposed development.
- 6.1.11. The appeal includes a number of enclosures, including:
- A copy of the Dublin City Council decision to refuse permission.
 - Copys of pre-planning correspondence.
 - Amended drawings for consideration by the Board.
 - Updated Architectural Design Statement.
 - Photomontages.

- Transport Technical Note – addressing the recommendations made by the Transport Department of DCC.
- Archaeological Impact Assessment – prepared by Archer Heritage Planning.
- Building Survey Report - prepared by Archer Heritage Planning.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

There is one observation noted in relation to the subject appeal. The observation was submitted by the Marrowbonelane Tenants Association and submits that the objections they raised to the Planning Authority remain the same. I refer the Board to section 3.2.5(1) of this report where the objections are summarised.

7.0 Planning Assessment

7.1. Introduction

7.1.1. The Board will note that the proposed development seeks permission to demolish existing structures on the site and to construct a 10-storey apartment block, comprising 42 residential units (17 no. 1 bed and 25 no. 2 bed), communal roof terrace, bicycle parking, concierge area, bin store, substation, switch room and other utilities, storage lockers and plant at roof level.

7.1.2. In terms of the information submitted, I note that there is reference to the fact that the development is proposed as a Build-to-Rent Scheme in the context of the Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, (DoHPLG, 2018) in the Design Statement, but not the Planning Report until the appeal stage. BTR schemes are defined as follows:

Purpose-built residential accommodation and associated amenities built specifically for long-term rental that is managed and serviced in an institutional manner by an institutional landlord.

7.1.3. Specific Planning Policy Requirement (SPPR) 7 sets out the following requirements for BTR developments:

- (a) Described in the public notices associated with a planning application specifically as a 'Build-To-Rent' housing development that unambiguously categorises the project (or part of thereof) as a long-term rental housing scheme, to be accompanied by a proposed covenant or legal agreement further to which appropriate planning conditions may be attached to any grant of permission to ensure that the development remains as such. Such conditions include a requirement that the development remains owned and operated by an institutional entity and that this status will continue to apply for a minimum period of not less than 15 years and that similarly no individual residential units are sold or rented separately for that period;
- (b) Accompanied by detailed proposals for supporting communal and recreational amenities to be provided as part of the BTR development.

These facilities to be categorised as:

- (i) Resident Support Facilities - comprising of facilities related to the operation of the development for residents such as laundry facilities, concierge and management facilities, maintenance/repair services, waste management facilities, etc.
- (ii) Resident Services and Amenities – comprising of facilities for communal recreational and other activities by residents including sports facilities, shared TV/lounge areas, work/study spaces, function rooms for use as private dining and kitchen facilities, etc.

7.1.4. The Board will note that the applicant secured an Exemption Certificate in terms of Part V and the provision of social housing within the scheme. In the first party appeal, the applicant / appellant noted that upon completion, an approved housing association will occupy the building in order to provide affordable housing in the area. I also note the amendments to the scheme as presented in the first party appeal and the submission of an alternative design, including development description, to include a Community Hub at ground and first floors. This Community Hub facility is proposed to be accessible for both residents of the development and the existing wider community.

7.1.5. At the outset, I note that the description of the proposed development did not include a reference to the development as a Build-to-Rent Scheme as required by SPPR 7 of the Sustainable Urban Housing, Design Standards for New Apartments, Guidelines for Planning Authorities, (DoHPLG, 2018). In addition, no information has been submitted with regard to any draft legal covenant which confirms that, prior to occupation, the applicant will enter into a covenant / legal agreement that outlines that the proposed Build-To-Rent Scheme will remain in the ownership of an appointed Build-To-Rent company, who will manage the operation of the scheme, for a minimum period of not less than 15 years.

7.1.6. In light of the above, I do not consider that the nature of the proposed development is clear. If the development proposed comprises a Build-to-Rent scheme, then it should have been clearly advertised as such. In this regard, I do not propose to consider the development as a Build-to-Rent scheme and will consider it solely as a normal housing proposal.

7.2. Assessment

7.2.1. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Compliance with the Dublin City Development Plan, National Guidelines & Standards
3. Visual & Residential Amenity Impacts
4. Impacts on Heritage & Archaeology
5. Roads & Traffic
6. Other Issues
7. Appropriate Assessment

7.3. Principle of the development

7.3.1. The proposed development, as originally proposed, seeks to construct a residential development on a prominent corner site at Marrowbone Lane and Summer Street South, in The Liberties area of Dublin City Centre. The development proposes the construction of a 10-storey block which will comprise 42 one and two bed apartments with a communal roof terrace/garden. The development includes, at ground floor level an external cycle store, concierge area which does not include a direct access to the rest of the building, a large bin store which will have access from the lobby to the apartments as well as externally and an internal cycle store with access directly to the north elevation onto Marrowbone Lane. The elevation to Summer Street South provides for access to the substation, switch room and tank/pumps. The lobby of the building extends from north to south and includes a store, lift, stairwell and fire escape to the south. At first floor level, the proposed development provides for a large storage area which provides a storage space for each proposed apartment.

7.3.2. Following the refusal of planning permission by Dublin City Council, the first party has submitted an appeal to the Board and has made a number of changes to the proposed development. The changes are as follows:

- The number of apartments is reduced from 42 to 40.
- The development will now include the provision of a Community Hub over the ground and first floor. The Hub will be accessible to both residents and members of the wider existing community. WCs are provided at first floor level.
- The Concierge facility has been omitted.
- Cycle storage has been relocated to the area previously occupied by the Concierge.
- Access to the services has been relocated from the Summer Street South elevation to the southern elevation of the building.

The above amendments have not been advertised by way of public notices or revised site notices.

7.3.3. The subject site is located within Dublin City Centre and on lands which are zoned Z6 – Employment and Enterprise in the Dublin City Development Plan 2016-2022 and where it is the stated objective ‘to provide for the creation and protection of enterprise and facilitate opportunities for employment creation’. The Plan further considers that ‘Z6 lands constitute an important land bank for employment use in the city, which is strategically important to protect’. Residential and community facility uses are identified as permissible in principle with residential use open for consideration on Z6 zoned land.

7.3.4. The Board will note that under Variation (No. 6) of the Dublin City Development Plan 2016-2022, adopted on the 4th February 2019, this zoning was changed to Z14 – Strategic Development and Regeneration Areas (SDRAs). It is the stated objective of this zoning ‘to seek the social, economic and physical development and / or rejuvenation of an area with mixed use, of which residential and ‘Z6’ would be the prominent uses.’ The site is located within SDRA 16 – Liberties (including Newmarket and Digital Hub) and residential development is a permissible use. In

terms of the proposed development, the Board will note that the development initially offered only a residential development with Concierge facilities.

- 7.3.5. The Board will note that the PA refused permission for the original proposed development on the grounds that the entirely residential development would undermine the vitality and viability of the area, contrary to the provisions of the Dublin City Development Plan. The amended proposal, as submitted on appeal, sought to address this issue by including a Community Hub as part of the development. The existing site is currently vacant and appears to have been vacant for a number of years at least.
- 7.3.6. I would concur with the concerns of the Planning Authority in relation to the single use development as originally proposed. It is clear that the objective of the Z14 – Strategic Development and Regeneration Areas (SDRAs) objective afforded to the site under the Liberties LAP, is ‘to seek the social, economic and physical development and / or rejuvenation of an area with mixed use, of which residential and ‘Z6’ would be the prominent uses.’ Z6 uses relate to employment and enterprise and while the introduction of the community / social use as proposed, better reflects the objective, it is unfortunate that a commercial use was not supported on the ground floor level to enhance animation.
- 7.3.7. However, having regard to the location of the subject site, on serviced and zoned lands, together with the proximity to public transport, retail, community and social facilities, it is reasonable to conclude that in principle, the development of the site for residential and community facility purposes is acceptable. I am generally satisfied that the proposed development, in principle, adequately accords with the Development Plan Z6 zoning objective and the Liberties LAP (now expired) Z14 zoning objective afforded to the site.

7.4. Compliance with National Guidelines & Standards:

- 7.4.1. The is located on a prominent corner within the Liberties area of Dublin City. The area is also covered by the Liberties Local Area Plan, 2009, extended to May 2020. The primary purpose of the LAP is to support the regeneration of the area in an integrated manor. The site is located within Character Area 4 – Pimlico / Marrowbone Lane, and within a Significant Redevelopment Site. The area is

characterised mainly by the several local authority apartment blocks built in the 1950s and a small section of brick Victorian / Edwardian houses built in terraces within an internal mews court, surrounded by cottages. It is generally considered that the large and bulky apartment blocks, which do not address the streets, do not blend in with the existing building typology of the two and three storey brick houses and cottages. The public open spaces lack trees and are poorly designed offering no security or overlooking and are generally unusable. There have been a number of developments in the wider Liberties area which have increase the building heights to 8 storeys and include a variety of commercial and residential uses.

- 7.4.1. The original proposed development sought permission for 42 no. apartments while the amended proposal, submitted with the first party appeal, reduced the number to 40 and included a Community Hub for use by the residents and the wider community. In the context of my assessment, I propose to consider the amended proposal with 40 units, as the amendments include elements which seek to address what I consider to be serious compliance issues with the national guideline standards as they relate to dual aspect, as well as other standard requirements. The development proposes a 10-storey building with a total height of 34.65m. No sections were included in the planning documents, but it would appear that each floor has floor to ceiling height of approximately 3m, with the ground floor of 3.3m. The structures on the roof have an overall height of approximately 4.3m
- 7.4.2. The building will use brick as the primary elevation treatment, with stone textured panels, polyester powder coated aluminium doors, windows and curtain walling. The development proposes a roof terrace which will include a boundary panel of 3.3m in height including lightweight mesh balustrading / guarding. The roof terrace will be landscaped and will be accessible by all residents of the development. The roof area will also include certain mechanical plant including heat pumps and associated generator as well as Photovoltaic Panels on top of a pergola garden structure providing an element of shade to the roof top terrace.
- 7.4.3. No car parking will be provided. Cycle parking for 72 bicycles is proposed within a secure area on the ground floor of the proposed, amended, development. In addition, the development proposes to provide 20 Sheffield style cycle stands for visitors which will be located externally, but sheltered, to the north of the building. The refuse storage area will also be located at ground floor level, to the south

western corner of the proposed development. The bin storage area covers an area of 85m² and will be accessible from both internally from the lobby area and externally from the western side of the building. As the development proposes the demolition of the existing boundary walls, the western elevation, and therefore the access to the bin store area, will potentially encroach onto the access road to the yard area of the adjacent Dublin City Council office building to the west.

7.4.4. The Board will note that the development relates to a site with an area of 0.0505ha, and the proposed development will occupy a significantly large area of the site. The proposed a site coverage of approximately 73.1% and plot ratio of 1:7.3. This equates to a density of approximately 797 units per hectare (40/0.0502). The mix of units proposed is 16 x 1 bedroom apartments (40%) and 24 x 2 bedroom apartments (60%). In terms of the Development Plan standards, the following is relevant:

	Proposed	Development Plan
Site Coverage	73.1%	45-60%
Plot Ratio	1:7.3	0.5-2.0
Density	797	50 units / ph
Public Open Space	263m ²	50m ² (10% of site)

7.4.5. The Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities suggest that there should be no upper limit to density on City Centre sites subject to qualitative safeguards. In areas close to public transport corridors minimum densities of 50 units per hectare should be applied subject to those safeguards. The density proposed in the amended proposed development is approximately 797 units per hectare. In terms of compliance with the Dublin City Development Plan, the proposed development significantly exceeds the recommendations of the Plan in terms of site coverage, plot ratio and density. I will address issues in terms of the height under section 7.5 of this report in terms of visual impacts.

7.4.6. The 2018 guidelines update the guidelines from 2015 in the context of greater evidence and knowledge of current and likely future housing demand in Ireland taking account of the Housing Agency National Statement on Housing Demand and Supply, the Government’s action programme on housing and homelessness, Rebuilding Ireland and Project Ireland 2040 and the National Planning Framework, published since the 2015 guidelines, and specific policy objectives contained in these guidelines take precedence over policies and objectives of development plans. The aims of the guidelines are to enable a mix of apartment types, make better provisions for building refurbishment and small-scale urban infill schemes, address the emerging ‘build to rent’ and ‘shared accommodation’ sectors and to remove requirements for car-parking in certain circumstances.

7.4.7. Chapter 3 of the Guidelines provide Design Standards and I proposed to consider the proposed development against these requirements as follows:

a) *Apartment floor area:*

The Guidelines require that the minimum floor areas be applied to apartment developments. The proposed development provides for the following floor areas:

No of Unit Type	Minimum overall F/A	Proposed F/A	Total F/A
16 x One bedroom	45.0m ²	8 x 53m ² 8 x 50m ²	824m ²
8 x Two bedrooms (3 persons)	63.0m ²	8 x 75m ²	600m ²
16 x Two bedroom (4 persons)	73.0m ²	8 x 77m ² 8 x 75m ²	1,216m ²
40 units in Total			2,640m²

The development proposes 40 x 1 and 2 bedroom apartments. All apartments proposed achieve the minimum floor area required by the guidelines.

The guidelines also provide for the following minimum requirements in terms of the living / dining and kitchen room areas:

Minimum aggregate floor areas for living/dining/kitchen rooms

Minimum widths for the main living/dining rooms Apartment type	Width of living/dining room	Aggregate floor area of living / dining / kitchen area*
One bedroom	3.3 m	23.0m ²
Two bedrooms (3 person)	3.6 m	28.0m ²
Two bedrooms (4 person)	3.6 m	30.0m ²

All units generally accord with the above requirements and I am satisfied that the development proposes bedrooms of a size which comply with the requirements in terms of width and floor areas.

b) Safeguarding Higher Standards

It is a requirement 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, but are not calculable as units that exceed the minimum by at least 10%)'.

In this regard, the following is relevant:

Unit Mix	No of Apartments	Cumulative Min Floor Area
40% 1-bed units	16	16 x 45m ² = 720m ²
60% 2-bed units	24	24 x 73m ² = 1,752m ²
Total	40	2,472m²

+ 10%	No of Apartments	Cumulative Min Floor Area
1-bed units + 10%	16	16 x 4.5m ² = 72m ²
2-bed units + 10%	24	24 x 7.3m ² = 175.2m ²
Total	40	247.2m²

Total Required Minimum Floor Area therefore is 2,719.2m². The actual proposed floor area of the residential element of the overall development, is 2,640m². There appears to be a shortfall of 79.2m² in this regard.

c) *Dual aspect ratios:*

This issue relates to the availability of daylighting and orientation of living spaces in order to maximise the amenity of occupants of the apartments. The proposed development provides for 40 apartments in a single block of 10 storeys.

All but 8 of the original proposed apartments were single aspect with the proposed units on the north eastern corner of the building from the second to ninth floors the only units with a dual aspect. The amended proposal submitted with the appeal included additional windows to ensure that all but 7 units, all east facing, will be single aspect. The majority of the private amenity spaces are east facing, while 8 are north facing and 8 west facing. None of the 40 proposed living spaces will have a southern aspect.

While I acknowledge the detail of the proposed development, I have reservations regarding the quality of the proposed private amenity spaces for a large number of the proposed apartments. The depth of the proposed balconies falls just short of the recommended 1.5m minimum depth required in the Guidelines.

d) *Floor to Ceiling Height:*

It is a specific policy requirement that ground level apartment floor to ceiling heights shall be a minimum of 2.7m, and 3m should be considered for multi-storey buildings. No sections were submitted with the planning documents or appeal however, the elevation drawings suggest that a floor to ceiling height of 3.3m at ground floor level, and 3m across all other floors is proposed. This is in accordance with the requirements of the guidelines.

e) *Lift & Stair Cores:*

A central core area is proposed to serve the development. Having regard to the scale of the proposed development, I am satisfied that the proposed stairs and lift arrangement is acceptable.

f) *Internal Storage:*

The proposed development provides for storage within all apartments. Minimum storage requirements are indicated in the guidelines and it is noted that said storage 'should be additional to kitchen presses and bedroom furniture but may be provided in these rooms. A hot press or boiler space will not count as general storage and no individual storage room within an apartment shall exceed 3.5m².' The Guidelines also advise that storage for bulky items outside the individual units should also be provided, apart from bicycle parking requirements. The Board will note that the development proposes external storage facilities to serve the development. The minimum storage space requirements are identified as follows:

Minimum storage space requirements

One bedroom	3 sq m
Two bedrooms (3 person)	5 sq m
Two bedrooms (4 person)	6 sq m

In the context of the proposed development, the Board will note that the submitted drawings indicate that storage is provided within each apartment, with storage facilities also provided remotely. As the plans do not indicate exactly which remote storage unit will be assigned to each apartment, I cannot clearly state that adequate storage will be provided. For example, the two bed (4 person) apartments include 4m² of storage in the apartments. If these units are assigned a storage space of 1.5m², they will fall short of the minimum requirements. The same issue arises in relation to the 2 bed (3 person) apartments.

In addition, it is notable that only 38 external storage units are indicated on the submitted drawings. The storage area indicates that there will be 20 storage units with an area of 1.5m² and 18 storage units with an area of 2m². Given that none of the proposed apartments achieve the minimum storage required within the unit, I consider that the development falls short of the minimum requirements in accordance with the guidelines.

g) *Private Amenity Space:*

It is a specific planning policy requirement that private amenity space shall be provided in the form of gardens or patios/terraces for ground floor apartments and balconies at upper levels. The guidelines require the following minimum floor area for private amenity space:

Minimum floor area for private amenity space

One bedroom	5 sq m
Two bedrooms (3 person)	7 sq m
Two bedrooms (4 person)	7 sq m

All apartments are provided with balconies or terraces, many of which appear to fall just short of the recommended 1.5m minimum depth required in the Guidelines. All private open spaces adjoin and have a functional relationship with the main living areas of the apartments. I have raised a concern above in relation to the quality of the private open spaces associated with a number of units given narrow nature of balconies.

h) *Security Considerations*

The Guidelines require that apartment design should provide occupants and their visitors with a sense of safety and security by maximising natural surveillance of streets, open spaces, play areas and any surface bicycle or car parking. Entrance points should be clearly indicated, well lit, and overlooked by adjoining dwellings. Particular attention should be given to the security of ground floor apartments and access to internal and external communal areas.

The Board will note that there are no apartments proposed at ground floor level and that the Concierge facility has been omitted from the amended proposals. The building is to be accessed via the main entrance to the north of the building, and a fire escape exit is identified to the south of the building. The access will be set back from the street and will be accessed via the undercroft area, adjacent to the visitor bicycle parking area, along Marrowbone Lane. The Community Hub will have a separate access and will connect to the apartments through a first-floor level door.

I am generally satisfied that the access to the building is acceptable.

- 7.4.8. Chapter 4 of the Guidelines seeks to deal with communal facilities in apartments and deals with access & services, communal facilities, refuse storage, communal amenity space, children's play, bicycle parking and storage and car parking. The Board will note that the amended proposal provides for a Community Hub which will be accessible to both residents and the wider existing population. Given the scale of the proposed apartment block as part of the development, I am satisfied that the communal areas proposed are adequately sized.
- 7.4.9. In terms of the provision of refuse storage, the Board will note that a bin storage area to service the apartments is proposed within the ground floor area at the at the south western corner of the proposed building. The step out of the building along the western elevation will result in a separation distance from the existing site boundary of between 0.9m and 1.2m at its narrowest, with a section of the proposed building located immediately onto the current location of the existing boundary. The Board will note that it is proposed to remove the existing boundary walls as part of the overall development. The refuse area proposed covers a large area of 82m². No layout of the bin storage area has been provided and therefore, I am not clear as to the intended nature or size of the bins proposed. Given the area of the bin store, it is possible that the development will provide individual bins for each apartment.
- 7.4.10. The bin store area includes a set of double doors and a single door opening essentially onto the access road to the yard of the Dublin City Council offices. In the context of the submitted site layout, the access to the bin store area could be considered to be quite restricted. In addition, there is no temporary storage area for bins proposed at the roadside which will require the service trucks to stop on Marrowbone Lane and retrieve the bins from the store area to the south of the site.
- 7.4.11. While the appeal submission suggests that there will be no impediment to the pedestrian crossing, there will be a temporary impact on the cycle lane on the southern carriageway of Marrowbone Lane during collection. The Swept Path Analysis submitted with the appeal appears to suggest that the refuse truck will stop in the access to the DCC yard, and the submission suggests that the impact will be temporary, lasting approximately 5 minutes, once a week. It is also indicated that it is not uncommon for cyclists to merge with traffic when for example, buses are

stationary at bus stops. The impact on the cycle lane is therefore not considered significant. In addition, I note no permission from Dublin City Council to the potential blocking of their access to facilitate bin collections. I also note the preference of the Road Planning Division of DCC that refuse servicing should be from Summer Street South.

- 7.4.12. While I accept the principle of the location of the proposed bin storage area within the development, noting that the Guidelines advise that 'Waste storage areas should not be on the public street, and should not be visible to or accessible by the general public', I am not convinced that sufficient access for waste collectors has been provided. In addition, I am not satisfied that the impact of waste collection can be considered insignificant in the absence of clear details and plans for this service.
- 7.4.13. In relation to communal amenity spaces, the development proposes a landscape roof terrace to serve the apartment residents. This will have an area of 263m² and Section 8.0 of the Design Statement submitted with the appeal provides details of same. The space will include pocket landscaped areas with raised planting beds with seating and paved areas proposed. Planting will include semi-mature trees and the space will offer long distance views over the City. I also note the intention to install living wall elements to balconies. I am generally satisfied that the proposed communal open space proposed is acceptable in the context of the site location.
- 7.4.14. No car parking is proposed within the development and I have addressed the bicycle parking above. The Guidelines promote the location of apartments which have access to public transport and other sustainable transport modes. Where it is appropriate to reduce car parking provisions, high quality cycle parking and storage facilities should be provided. The guidelines require that 1 cycle storage space per bedroom is applied. The proposed development therefore requires 64 bicycle parking spaces. The development proposes an appropriate quantum of bicycle parking spaces and the development therefore accords with the guideline requirements as they relate to the provision of cycle parking.
- 7.4.15. In terms of car parking, the Guidelines notes that the quantum or requirement for car parking will vary in terms of the location of the site. Section 4.19 suggest that the car parking provision can be minimised, substantially reduced or wholly eliminated in certain circumstances. Such policies are applicable in highly accessible areas in or

adjoining city cores or at a confluence of public transport systems. Where it is sought to eliminate or reduce car parking provision, it is necessary to ensure the provision of an appropriate drop off, service, visitor parking and parking for the mobility impaired.

7.4.16. The Board will note the concerns raised by the Dublin City Road Planning Division in relation to the proposal to eliminate car parking at the location, as well as the existing residents in the area. In response to the concerns raised, the applicant submitted a response to these issues as part of the first party appeal. It is submitted that the TTA demonstrates that the proposed development benefits from very good sustainable transport connections in the form of bus and tram stops in close proximity, as well as good walking and cycling options to Dublin City Centre and local areas. It is further noted that in an effort to encourage more sustainable modes of transport, cycle parking in excess of the DCC standards have been provided.

7.4.17. A number of GoCar (car share) spaces are provided in close proximity to the development and car clubs have encouraged the reduction of private car ownership. While the existing car club spaces are not exclusively linked to the proposed development, it is submitted that they help to support car-free developments such as the proposed development. It is also submitted by the applicant that the Build-to-Rent apartments will be advertised as without any parking spaces. Notwithstanding the third party submission, which included photographs of the restricted car parking in the vicinity of the site, I am generally satisfied that the development is acceptable in terms of compliance with the guidelines.

Conclusion:

7.4.18. Overall, I am satisfied that the principle of the proposed development is acceptable in terms of the location of the site within Dublin City and the zoning objective afforded to the site. In terms of the general thrust of the Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2018, I have raised a number of concerns in terms of the development as follows:

- Combination minimum floor area standard
- Floor to ceiling heights not clear
- Storage issues
- Depth of private balconies

- Bin storage area and in particular, access to same.

7.5. Visual & Residential Amenity Impacts

7.5.1. The proposed development site is located on a prominent corner at the junction of Marrowbone Lane and Summer Street South. This area of Dublin City is included within the regeneration area for the Liberties. The wider area includes a variety of developments, including both residential and commercial and a range in building heights. Building heights range from two storey to 5-storey in the immediate vicinity. The site itself includes a number of existing structures and a high stone boundary wall, none of which are protected structures.

7.5.2. The Dublin City Development Plan, 2016-2022, at Section 16.7, provides guidance and standards for building height limits within the City. The subject site is located within an area which has been identified as having a building height cap of 28m for commercial development and 24m for residential development. Section 4.5.4 of the Plan deals with taller buildings and acknowledges the intrinsic quality of Dublin as a low-rise city and considers that it should remain predominantly so. The Plan further provides that taller buildings can also play an important visual role, and 'recognises the merit of taller buildings in a very limited number of locations at a scale appropriate for Dublin'. Policy SC16 is relevant in this regard and states that it is the policy of Dublin City Council:

To recognise that Dublin City is fundamentally a low-rise city and that the intrinsic quality associated with this feature is protected whilst also recognising the potential and need for taller buildings in a limited number of locations subject to the provisions of a relevant LAP, SDZ or within the designated strategic development regeneration area (SDRA).

7.5.3. The issue of height was raised by third parties and the Planning Authority concluded that the development does not provide an appropriate transition in scale or have due regard to the nature of the surrounding morphology, would appear over dominant, overbearing and incongruous in the streetscape. The Board will note that the proposed building rises to an overall height of 34.65m, which is considered significantly higher than the City Development Plan supports. It is therefore

reasonable to conclude that the height proposed contravenes the Dublin City Development Plan.

- 7.5.4. The Urban Development and Building Height Guidelines for Planning Authorities (Dec 2018), builds on the wider national policy objective to provide more compact forms of urban development as outlined in the National Planning Framework. In contrast to the City Development Plan, increased building heights is identified as having a critical role in addressing the delivery of more compact growth in urban areas, particularly cities and larger towns. Specific Planning Policy Requirements (SPPRs) of the height guidelines take precedence over any conflicting policies, and objectives of the Dublin City Development Plan.
- 7.5.5. In support of the proposed development, the applicant submitted context elevations and a number of photomontages to depict the development as proposed. I note that the applicant clearly indicates the intention for the building to be higher than surrounding buildings, to act as a bookend to the prominent corner site location. While I have no objections in principle to the overall design of the proposed apartment block, or indeed the proposed height in principle, I have already raised concerns in terms of the overall height and scale in the context of the sites' location. In addition, while I note the examples of recently permitted higher developments in Dublin City presented by the applicant / appellant suggesting precedent, the context of the subject site must be considered, and the merits of the current proposal assessed.
- 7.5.6. While I have no objection in principle to increase building heights and would consider same to comply with national policy which seeks to achieve greater height and densities in appropriate urban areas adjacent to quality public transport routes, I do have concerns in relation to the context of the subject site. Of particular note, the Marrowbone Lane flats, which lie to the north of the site and across Marrowbone lane from the site, is included as a Protected Structure in the Dublin City Development RPS. In addition, the Thomas Street ACA lies within 100m of the site to the north east. The surrounding residential and commercial (office) buildings rise to between 2 and 5 storeys and while I accept the height of the adjacent Dublin City Council office building rises to 6 storeys, I consider that the scale of the proposed residential building is excessive. I acknowledge the submission of the first party in this regard but consider that the proposed development would represent an

inappropriate form of development which would significantly impact existing residential, visual or general amenities, would be overbearing on existing residential development to the north and east, and would not be appropriate to the character of the streetscape. In addition, I have serious concerns in terms of the visual impacts arising on the Marrowbone Lane flats, protected structure.

- 7.5.7. In terms of residential amenity and the public realm, the Board will note that the proposed development includes a community hub at ground and first floor levels as part of the amended proposal submitted with the appeal. In the absence of these spaces, I would not accept that the development in principle, accords with the policies and zoning objectives of the Dublin City Development Plan and Liberties LAP. Should the Board not wish to consider the amended proposals, refusal of permission is recommended in this regard. However, given the inclusion of the Community Hub, I am satisfied that the public will have ongoing access to this amenity. I am satisfied that the proposed community use at ground floor level will enhance the animation of the street and will provide for appropriate community facilities for the wider community.
- 7.5.8. In terms of residential amenity and open space provision, the Board will note that I have raised concerns in terms of the proposed apartments sizes, storage provision and balcony depths. I have also raised concerns in terms of the bin storage area and access to same. I would acknowledge the proposals for the roof garden/terrace and accept the significant amenity proposed for the future residents of the proposed development. As part of the appeal documents, I also acknowledge the amendments to the elevations of the building to include additional windows to increase the number of dual aspect units. I also acknowledge that the Apartment Guidelines, Section 6.7, deals with situations where a development cannot fully meet all of the requirements of the daylight provisions this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, I am generally satisfied that the proposed development is acceptable. Should the Board be minded to grant planning permission, issues relating to storage provision and private balconies would require to be addressed. in principle, I am satisfied that the proposed development is acceptable in terms of the residential amenity for future occupants.

- 7.5.9. With regard to impacts on existing residential amenity, I have addressed my concerns in terms of visual impacts above. In terms of overshadowing, I note that the

existing apartment block to the east of the proposed development is unlikely to be impacted by the proposed development. The 4-storey apartment block to the north of Marrowbone Lane, Protected Structure no. 5044 Marrowbone Lane flats, is already impacted to a degree by the presence of the Dublin City Council Area Offices, at 21.7m in height, located to the south of Marrowbone Lane. The proposed development, located approximately 17m to the south of the existing apartment building, will rise to 34.6m and will result in significant overshadowing of the apartment windows on the south eastern corner of the Protected Structure. I do not consider that the impact of this overshadowing has been adequately addressed in terms of the amenity of the residential spaces. While I accept that some impact on existing residential amenity is likely, and not unacceptable given the context of the site in Dublin City, the significance of the impact on existing residents in terms of overshadowing or their homes and the wider area is undetermined in my opinion.

- 7.5.10. Should the Board be minded to grant planning permission in this instance, I recommend that two floors of the development be omitted, which would permit an 8 storey building with the roof structures. I consider that the reduced scale would be better accommodated within the subject site, while still presenting a 'bookend' building on this prominent corner of Marrowbone Lane and Summer Street South. A reduced height will integrate more appropriately into this urban landscape.

7.6. Impacts on Heritage & Archaeology

Heritage

- 7.6.1. The proposed development does not include works to any Protected Structure which is included on Dublin City Councils Record of Protected Structures. It is noted that the existing site is occupied by a number of structures which are to be demolished to accommodate the proposed development. Buildings on the site are identified on the 1756 John Rocque's maps, where it is noted that this area is heavily developed due to industrial activity. These identified buildings do not relate to the current buildings present on the site.
- 7.6.2. The City Archaeologist noted that recent excavations on Thomas Street highlighted the survival of subsurface features and excavations undertaken prior to the construction of the adjacent Eblana House to the immediate west of the site,

uncovered a post-medieval tannery. Walls, cellars and industrial features are likely to survive at subsurface level within the proposed development area. A measured historic building survey was requested by the City Archaeologist in the form of a further information request to include a written record of any historic buildings and boundary treatments, an account of the buildings history, an evaluation of previous records for the building and an account of the buildings form, function, date and sequence of development.

- 7.6.3. As no further information was requested, the applicant has submitted an Archaeological Impact Assessment and a Building Survey as part of the first party appeal. Section 2 of the AIA describes the existing buildings within the site as comprising:

‘residential and outbuildings that may have been used as sheds or stables in the past. The conditions of the buildings vary with the worst roofless and on the verge of collapse. The earliest structures are likely of 19th Century construction though several phases of repair and alteration are visible. The yards are concreted over while the entire site consists of an area of c490 sq. m.’

- 7.6.4. The assessment notes that there are no protected structures or structures listed on the NIAH within or adjacent to the site. The Marrowbone Lane flats, located to the north of the subject site, is a protected structure and included in the RPS, no.5044 and the Thomas Street ACA is indicated as being 90m to the north east of the site. The report notes that there will be no direct impact on either the protected structure or the ACA but concludes that there may be an indirect impact in terms of visual impact, depending on the final development layout. I have already raised concerns above in terms of the potential visual impacts arising on the protected structure in the vicinity of the site.

- 7.6.5. The report notes that the subject site comprises two plots, no. 72 Marrowbone Lane and no. 3 Summer Street, each of which contain residential houses and associated outbuildings, some of which are derelict. A building survey was undertaken on the structures within the site and is presented as a separate report to the Archaeological Impact Assessment. Section 3.1 sets out the history of occupancy of the site and Section 3.2 and 3.3 details the historical mapping and modern changes for the area.

- 7.6.6. Section 4 provides details of the building survey carried out at the site. It is noted that the existing structures, and parts of the boundary wall, are considered to be in very poor or derelict condition. An original cast iron protection piece or bollard remains in place, located at the wall adjacent to the original entrance to the stables on Marrowbone Lane, now the entrance to the Dublin City Council Water Department offices. The report submits that its original purpose was to prevent axle damage to the wall at the entrance.
- 7.6.7. It is noted that no. 72 Marrowbone Lane is the last remaining 2 storey house in the immediate area, all other buildings of similar age and / construction having been demolished. As a result of the development of the area in the 20th Century, the house is considered dwarfed by the four-storey flat complexes along Marrowbone Lane, Summer Street and Braithwaite Street. The report concludes that the building does not contribute positively to the streetscape, is of no historical or archaeological interest, has little or no artistic, cultural, scientific, technical or social interest.
- 7.6.8. It is concluded that the comprehensive survey of the principle structures on the site has been produced to provide an archival record of examples of the once common type of housing and building stock in this renowned early industrialised area of Dublin. The proposed development will also see the removal of the boundary wall and the original cast iron protection piece or bollard located at the wall adjacent to the original entrance to the stables on Marrowbone Lane, now the entrance to the Dublin City Council Water Department offices. No proposals or recommendations for the reuse of this feature has been submitted for the consideration of the Board.
- 7.6.9. Should the Board be minded to grant planning permission in this instance, I recommend the inclusion of a condition requiring the retention / reuse of the original cast iron protection piece or bollard and that relevant conservation conditions be included.

Archaeological Impacts

- 7.6.10. The subject site is located within a zone of archaeological constraint for the Recorded Monument DU018-020 (Dublin City) which is listed on the Record of Protected Monuments and Places and subject to statutory protection under Section 12 of the Monuments Act 1994. In addition, one recorded monument, DUB018-

020328, being a House 18th / 19th Century, is identified to the immediate east of the site.

7.6.11. The Board will note that no archaeological assessment was initially submitted with the application and consultation with the City Archaeologist was carried out, as required under Policy CHC9, part 3 of the Dublin City Development Plan which states that it is the policy of the council to protect and preserve National Monuments:

3. That sites within Zones of Archaeological Interest will be subject to consultation with the City Archaeologist and archaeological assessment prior to a planning application being lodged.

7.6.12. The site is noted to be one of archaeological potential by the Dublin City Archaeologist. It is outside the boundary of the medieval city but within the precinct of the Priory of St. Thomas the Martyr (DU018-020051), which was founded in 1177, and later becoming an Augustinian Abbey in 1190.

7.6.13. While not raised as a reason for refusal in the Dublin City Council decision, the applicant / appellant submitted, in support of the appeal, an Archaeological Impact Assessment. The submitted Archaeological Impact Assessment report sets out the archaeological and historical background of the area and identifies the sites identified on the RMP in the vicinity of the site. Section 4.5 also presents details of 18 previous archaeological excavations in the vicinity between 1997 and 2018. Section 4.7 sets out the detail of the site visit undertaken and notes that no features of archaeological potential were noted in the walkover survey.

7.6.14. In terms of impacts, the desktop study and site inspections conclude that there remains the potential for the survival of unknown, buried archaeological remains on the site given its location with the bounds of the RPM DU018-020 (Dublin City) and the lack of apparent modern development. It is noted that any development involving sub-surface ground works has the potential to negatively impact on archaeological features, deposits or materials that may be present on the site. It is recommended that the site be subject to further archaeological assessment, under licence from the Department of Culture, Heritage and the Gaeltacht and in consultation with the National Museum of Ireland, in the form of archaeological testing in advance of any proposed construction works.

- 7.6.15. The report, having regard to the information sought by the Dublin City Archaeologist, falls short of the information sought. The conclusion of the AIA suggests that archaeological testing be carried out under licence in advance of any proposed construction works. Having regard to the sensitivity of the site location in terms of Dublin City's industrial and archaeological heritage, I would consider it prudent that the archaeological testing should be undertaken prior to the issuing of a decision to grant planning permission. The projected impact of the proposed development on the archaeology of the site would be clearer and any necessary mitigation strategy could be appropriately developed.
- 7.6.16. The Board will note that the City Archaeologist recommended that a condition be included in any grant of planning permission. Having regard to the nature of the existing site, I am not satisfied that the heritage and archaeological impacts have been appropriately considered or addressed. I would also note that in the event of a refusal of planning permission, this would be a new issue.

7.7. Roads & Traffic

- 7.7.1. The applicant included a Traffic & Transport Assessment as part of the planning documentation. The Traffic Impact Assessment, section 5 of the report, notes that the proposed development is expected to generate 19 'all person trips' in the AM and 25 in the PM peak respectively. The Mode Share Percentages are detailed in Table 5.2 and submits that the highest proportion of residents are expected to travel on foot (36%) followed by bus (27%), by bicycle (13%) or train / Dart / Luas (12%) and 12% associated with cars. The assessment concludes that as the development is a car-free development, 'there will be no additional commuting trips associated with the site and minimal traffic will be generated on the road'. The assessment concludes that the development should not significantly impact on the local road network and will have a negligible impact on capacity on local buses and local rail services.
- 7.7.2. A Mobility Management Plan is also to be put in place by the developer to encourage and support more sustainable travel patterns among both residents and visitors at the proposed development. A MMP Manager will be appointed and monitoring of travel practices will be undertaken six months after the development opens.

- 7.7.3. The site is located within Zone 1 in terms of car parking provision. The Board will note that the development does not propose any car parking. The Sustainable Urban Housing: Design Standards for New Apartments, DoHPLG December 2018, section 4.18 and 4.19, facilitate the reduction in the provision of car parking spaces, or the elimination of such provision in certain circumstances. While I acknowledge the third party submissions with regard to existing restricted car parking in the area, given the location of the site I am generally satisfied that the lack of parking can be considered appropriate to serve the proposed development.
- 7.7.4. In terms of cycle parking provision, the development site is again, located within Zone 2 in the City Development Plan for cycle parking. I have discussed this matter above and I am satisfied that adequate bicycle parking is proposed to serve the development.
- 7.7.5. With regard to servicing of the proposed development, it is submitted that a concierge service should be offered to accept deliveries for residents. The Board will note that the amended proposal appears to have omitted this service. I have also raised concerns previously with regard to refuse collection.
- 7.7.6. Having regard to the above, and other than the issue of refuse collection, I am generally satisfied that the development as proposed is acceptable at this location and will not result in any significant impacts on the adjoining road network.

7.8. **Other Issues**

7.9. **Water Services**

- 7.9.1. In terms of water services, the Board will note that the applicant submitted a Surface Water and Foul Calculations Report along with an Infrastructure Report. A Flood Risk Assessment was also included with the planning application. These reports sought to address how the development will be catered for in terms of water and drainage infrastructure, civil and structural aspects of the development as follows:

Foul Network & Effluent:

- The new foul network will have a Ø100mm foul sewer with a gradient of 1/40 and will connect to the existing Ø300 foul sewer on Summer St. South.

Surface Water Drainage:

- It is proposed to construct a new, separate surface water drainage systems for the site with a pipe diameter of Ø225mm which will be tied into the overflow pipe on Summer St. South.
- No attenuation is required, and the use of green roofs will reduce the surface water runoff from hardstanding areas.

Water Supply:

- The development will be served by a new Ø100mm uPVC watermain.

The Surface Water & Foul Calculations Report, prepared by Curtins Consulting Engineers, describes the surface water drainage design and foul drainage design philosophy in support of the development of the proposed development. The pipe network design was informed using the Windes 'Microdrainage' (UK Version) surface water modelling software programme. The conclusions of the report note that the proposed surface water drainage network and the foul drainage network have adequate capacity to convey the design flows.

Flooding:

- A Flood Risk Assessment was prepared for the subject site and the report submits that there is no evidence of flooding in the immediate vicinity of the site.
- The subject site is located within Flood Zone C as no flooding has been identified within 200m of the site, even in the worst-case scenario, the justification test is not needed.
- No mitigation measures are proposed or required with regard to fluvial, tidal or surface water flood.
- Section 6.2 of the FRA indicates that the groundwater flood risk is currently unknown due to lack of site-specific groundwater levels and it is recommended that groundwater levels are monitored during ground investigation works and proposed floor levels to be based on the results of the monitoring over a 3-month period.

- It is noted that the development will not increase flood risk as a result of the works.

In terms of the information submitted, I am generally satisfied that the development can be accommodated in terms of water services. I also note that the Drainage Division of Dublin City Council has raised no objection to the proposed development.

7.9.2. Part V

The issue of social housing and Part V is dealt with under Section 96 of the Planning and Development Act 2000, as substituted by Section 3 of the Planning and Development Amendment Act 2002. The Board will note that the Planning Authority granted an Exemption Certificate under Section 97 of the Act with regard to the proposed development.

7.9.3. Development Contribution

The subject development is liable to pay development contribution under Section 48 of the Planning and Development Act 2000, as amended. A condition to this effect should be included in any grant of planning permission.

The proposed development falls outside the area for an adopted Section 49 Supplementary Development Contribution Scheme – Luas Cross City (St. Stephen's Green to Broombridge Line) under Section 49 of the Planning and Development Act, as amended. Therefore, no S49 condition is applicable should permission be granted.

7.10. Appropriate Assessment

7.10.1. The site is an urban brownfield site and is not located within any designated site. The site is not located within any designated site. The closest Natura 2000 site is the South Dublin Bay SAC (& pNHA)(site code 00210) and the South Dublin Bay and River Tolka Estuary SPA (site code 004024) which are located approx. 4.1km to the north east of the site. The North Dublin Bay SAC (& pNHA)(Site Code 000206), and North Bull Island SPA (Site Code 004006) lies approximately 7.5km to the east.

7.10.2. The Board will note that the applicant, in support of the proposed development, submitted an Appropriate Assessment Screening Report which notes that the site

was formerly in residential use. The subject site is located within an established urban area and is entirely composed of buildings and artificial surfaces, with the external areas being classified as 'recolonising bare ground'. The report notes the location of the River Liffey, approximately 700m to the north of the site and the River Poddle, approximately 700m to the east. As the Poddle has been culverted under the majority of the City Centre, it is considered to be hydrologically isolated from the surrounding area. It is submitted that there is no direct flow pathway between the site and the Natura 2000 sites in Dublin Bay as any surface water runoff is collected by the storm drains on Marrowbone Lane or Summer Street South.

- 7.10.3. Section 4 of the AA Screening Report presents an assessment of potential impacts. It is submitted that there is no risk of habitat loss, fragmentation or any other direct impacts. With regard to indirect impacts, no potential pathways are identified and any surface water runoff leaving the construction site would be diverted to the local authority sewer and will receive treatment prior to discharge. I would agree that there is no relevant hydrological connectivity to any European site.
- 7.10.4. The proposed development is to connect to existing public water services, and the AA Screening report references the Ringsend Wastewater Treatment Plant. It is noted that the Ringsend Treatment Plant is within capacity and is providing a high level of treatment before discharging into Dublin Bay. There are no effects arising which could act in combination with the subject proposal to result in significant effects to Natura 2000 sites.
- 7.10.5. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

I recommend that planning permission be refused for the proposed development for the following stated reasons. The Board will note that my concerns in relation to the servicing of the development would constitute a new issue.

9.0 Reasons and Considerations

1. Having regard to the height, design, scale, mass and bulk of the proposal and the proximity of the development to adjoining properties, it is considered that the proposed development would constitute overdevelopment of the site and would excessively overlook and overshadow adjoining properties. The proposed development fails to integrate or be compatible with the design and scale of the adjoining buildings and as a result, would seriously injure the visual amenities of the streetscape and would have an adverse impact on the character of the area. The proposed development would, therefore, by itself and the precedent it would set for other development, seriously injure the amenities of property in the vicinity, would be contrary to the provisions of the Dublin City Development Plan 2016-2022 and would be contrary to the proper planning and sustainable development of the area.
2. It is considered that a number of apartments in the development would fail to provide for a sufficient level of amenity for proposed residents as set out in the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” issued by the Department of Housing, Planning and Local Government in March, 2018 and as a result, would be contrary to the provisions of the Dublin City Development Plan 2016-2022 and the said Guidelines. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
11th March 2021