



An
Bord
Pleanála

Inspector's Report ABP 309094 - 20

Development

Demolition of existing building and removal of 62 parking spaces and Construction of five storey office development with café at ground floor level over lower ground floor and single basement, two car spaces and 90 cycles spaces, relocation of access from Grattan Street to Grattan Court East, roof gardens, plant, signage, landscaping, ancillary development and site works above and below ground.

Location

Nos 73 -83 Lower Mount St. Dublin 2.
(Ballaugh House and Timberlay House.)

Planning Authority

Dublin City Council.

P. A. Reg. Ref.

3015/20.

Applicant

IPUT Plc.

Decision

Grant Permission

Third Party Appellants

1. Madison Estates CLG.
2. Grainne Hynes.

Date of Site Inspection

15th April, 2021

Inspector

Jane Dennehy.

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1.0 Site Location and Description

- 1.1. The site has a stated area of 2,883 square metres and is formed from the plots of twelve terraced townhouses on Lower Mount Street which were replaced by the existing four storey brick faced office block dating in the late 1970s. It has frontage of circa sixty-seven metres along the north eastern side of Mount Street Lower as far as the junction with Grattan Street to the north east. There are three pedestrian entrances on the street frontages and a services entrance on Grattan Court East. The main vehicular access is off Grattan Street which is shared with the Madison Court Apartments.
- 1.2. The Madison Court a seven-storey apartment block with twenty-one apartments adjoining the application site is located in the north east corner of the block with frontage onto Grattan Street off which there is shared vehicular access and a pedestrian entrance and Grattan Court East is on the northern frontage. Communal amenity space is located on the east side of the block between it and nine dedicated carparking spaces serving the apartments. Within the immediate local street network, including the opposite side of Grattan Court East there is a mix of residential development in apartments and office developments.

2.0 Proposed Development

- 2.1.1. The application lodged with the planning authority indicates proposals for demolition of the existing office development on the site including on site parking and ancillary development and for construction of a five storey office development over lower ground floor and a basement incorporating a café at ground level 4 storey twenty on site car spaces and ninety cycle spaces; relocation of the vehicular access/egress to development (co-shared with the adjoining Madison Court apartment development) from Grattan Street to Grattan Court East, provision of roof gardens/terraces, roof plant, signage, site landscaping and all associated ancillary development and above and below ground site development works. The stated gross floor area for the proposed building is 12,947 square metres.
- 2.1.2. Provision is made for nine parking spaces at surface level for the Madison Court apartments at the east side of the building in their original location with shared access off Grattan Court East which is to be relocated from Grattan Street.

2.1.3. A multiple item request for additional information was issued to which a response was lodged on 9th November, 2020 indicating a reduction car parking spaces to seventeen in total, an increase in cycle parking spaces to 174 along with storage facilities, graduated opaque fritting on windows to address concerns about potential overlooking of residential accommodation by observer parties, clarification on the red boundary line for the application site; a loading bay within the site replacing a layby on Grattan Street East, and alterations to the gated entrance along with auto track drawings for all vehicles sizes.

2.2. **Planning Authority Decision**

2.2.1. By order dated, 2nd December, 2020, the planning authority decided to grant permission, for the proposed development as modified in the further information submission subject to conditions all of which are of a standard nature. An additional requirement is a reduction of two car in parking spaces at basement level. A revised layout is to be agreed with the planning authority by compliance with Condition 13(a).

2.3. **Planning Authority Reports**

2.3.1. The **planning officer** further to comprehensive assessment in the initial report of the original application submission and the subsequent report on the further information submission taking into account the third-party observations and technical reports stated that the proposed development would constitute an upgrade at the site location in innovative design providing for employment without adverse impact on surrounding development including resident development. A grant of permission is recommended.

2.3.2. The initial report of the **Transportation Planning Division** indicated recommendations for an additional information request which includes a recommendation for a reduction from twenty to fifteen parking spaces on site, owing to alternative means of transport available and precedent permissions for similar development with zero parking in the vicinity, an increase in cycle parking provision with full details for layout and storage being required, preparation and submission of a mobility management plan, clarification of details and proposals relating the footpath at Grattan Court East along with details for the lay by and servicing

arrangements on the Grattan Court East frontage. It is noted that issues as to rights of way are outside the remit.

2.3.3. The final report of the **Transportation Planning Division** indicated satisfaction with the further information submission, which included proposals for loading bay within the site with the layby on Grattan Court East omitted, is within the site boundary with associated alterations for then entrance and gate, an auto-track analysis to demonstrate manoeuvrability for services vehicles, a recommendation for omission of a further two car spaces from the seventeen proposed, and acceptance of an increase in cycle parking provision from ninety to one hundred and seventy four cycle spaces on site, cycle storage and associated changing facilities. Conditions are recommended to address outstanding details.

2.3.4. The final report of the **Drainage Division** indicates satisfaction with the proposed development subject to conditions of a standard nature.

2.4. **Third Party Observations**

2.4.1. Several submissions were lodged by occupants of the Madison Court Apartments in which the issues of concern are that of:

- Adverse impact of the proposed development at operational stage on residential amenities of their apartments on grounds relating to overbearing impact, overlooking and overshadowing of the apartments, external private open space and communal amenity space serving the apartments attributable to the increased height, inclusion of a roof terrace accessible to occupants, reduced separation distance
- Adverse impacts stage on residential amenities of their apartments during demolition and construction stages due noise and disturbance and dust emissions adversely affecting environmental quality.
- Relocation of the vehicular entrance to Grattan Court East and possible cessation/obstruction of rights of way over the existing access by residents.

3.0 **Planning History**

3.1.1. There is no record of relevant recent planning history for the application site.

4.0 Policy Context

4.1. Development Plan

- 4.1.1. The operative development plan is the Dublin City Development Plan, 2016-2022 according to which the site is within an area subject to the zoning objective: *Z6 to provide for the creation and protection of enterprise and facilitate opportunities for employment creation*
- 4.1.2. Madison Court, (the more environmentally sensitive area) at which the appellant parties are based, is subject to the zoning objective Z1. *To provide, protect and improve residential amenities.*
- 4.1.3. The provisions of section 14.7 are applicable as the site location is in a transitional zonal area. It provides for avoidance of abrupt transitions in scale and in use in contiguous transitional zone areas with avoidance of development detrimental to the amenities of the more environmentally sensitive zone, such as residential areas abutting mixed use areas. of the CDP.
- 4.1.4. Policy Objectives CEE 1, CEE3, CEE4, CEE11 provide for the facilitation, encouragement, and enhancement of development of commercial enterprise, employment, and international competitiveness within the city through the supply of quality commercial space suitable for indigenous and global occupancies.
- 4.1.5. Variation 7 incorporates the National Planning Framework and Regional Spatial Economic Strategy (RSES). It provides for identification and reuse of brownfield land and underutilised land well served by transport purposes; for building upwards rather than outwards and achievement of consolidation and compact city.
- 4.1.6. Policy QH8 promotes sustainable development of vacant or underutilised infill sites and favourably consider higher density which respects the character and design in the area
- 4.1.7. Development management standards are set out in Chapter 16. The indicative plot ratio for Z6 zoned lands is 2.0-3.0 and indicative site coverage is sixty per cent.
- 4.1.8. Building heights are set out in section 16.7.12 in which a maximum for commercial development is 28 metres and nine storeys for residential or seven storeys for office use.

4.1.9. According to section 14.7 it is important to avoid abrupt transitions and scale and use in contiguous transitional zonal areas and avoid development detrimental to the more sensitive zone, such as residential areas adjacent to mixed use zones.

4.1.10. The site location is in Area 1 for carparking standards having regard to Section 16.1 and Table 1 the standard for which is one space per 400 square metres gross floor area. For cycle parking the standard is one space per 100 square metres gross floor area.

4.2. **Strategic Guidance.**

4.2.1. Policies and standards for building heights are in “*Urban Development and Building Heights: Guidelines for Planning Authorities*”, 2018, (Building Height Guidelines) particularly the criteria set out in section 3.2 issued under Section 28 of the Planning and Development Act, 2000 as amended.

5.0 **The Appeals**

5.1. Two third party appeals were lodged and their contents are outlined below:

5.2. **Madison Estates CLG.**

5.2.1. An appeal was received from Jim Brogan on behalf of the appellant on 7th January, 2021 in which it is requested that permission be refused. The appellant is the company responsible for the management on behalf of the residents of the apartment complex known as Madison Court which adjoins the frontage of the application site Grattan Street and Grattan Court East. According to the appeal:

- The Verified Views in the application submission should be revised to address deficiencies in detail prior to determination of a decision as follows:

outdoor amenity spaces facing the Madison court should have been included in the views,

No reference to a street for the elevation facing Grattan Street.

Drawing 73-LMS – HJL - ## - DR – A – 2002: West Elevation

(Existing).

Madison Court should be identified as not forming part of the site; -
Drawing 73-LMS – HJL - ## - DR – A – 2011: West Elevation
(Proposed).

There is no reference to Grattan Court Lane and it is misleading to show the north elevation of Madison Court as being within the site of '73-83 Mount Street Lower'. Drawing 73-LMS – HJL - ## - DR – A – 2003: North Elevation (Existing).

The representation of Madison Court is similarly misleading. A drawing of the north elevation, opposite the south elevation of Madison Court should be included so that residents can evaluate the impact on their properties. Drawing 73-LMS – HJL - ## - DR – A – 2012: North Elevation (Proposed).

- The applicant does not have sufficient legal interest of consent to enable the development to proceed so permission should be refused. The residents at Madison Court have had access, for forty years via a 'right of way', to nine parking spaces to the west side of the (existing) access route through the application site via a vehicular entrance on Grattan Street through the site as far as an entrance on Grattan Court East. This would be terminated by the proposed development resulting in the residents of Madison Court being confined to use of the entrance off Grattan Court East. The Indenture relating to the right of way does not allow for permanent extinguishment of a significant section but the Appellant will not give the consent.
- Above and below ground services and facilities for Madison Court such as the sewerage connections, pumping system and water tank are within the application site and consent has not been given to relocation or alterations. Interruptions may also occur during demolition and construction. Sufficient information on maintenance of these services during demolition / construction and subsequent completion of the development should have been provided and assessed at application stage as there is potential for serious impact on Madison Court. It is requested that this information be requested from the applicant and made available for to the appellant parties for their observations prior to determination of the decision.

- The proposed development materially contravenes the provisions of section 14.7 of the CDP which were disregarded in the planning authority assessment. It is applicable as the site location is in a transitional zonal area, it being within an area subject to the zoning objective: *Z6 to provide for the creation and protection of enterprise and facilitate opportunities for employment creation* whereas Madison Court, (the more environmentally sensitive area) is subject to the zoning objective Z1. *To provide, protect and improve residential amenities*. The proposed development in mass, scale and design is detrimental to the residential amenities at Madison Court as it will be affected by overbearing impact, overlooking and overshadowing.
- The proposed development constitutes overdevelopment. The site coverage, stated to be 67% exceeds the sixty percent indicative ratio for 'Z6' zoned lands according to the CDP and there is an increase in the existing development's footprint extending in a northerly direction towards Madison Court. The circumstances in the CDP that allow for consideration of site coverage in excess of the indicative range are not applicable as there is no residential element in the development, no urban renewal grounds or necessity to maintain streetscape profile. The proposed development would be visually incongruous and obtrusive, adversely affecting the visual amenities of the streetscape.
- The use mix is unsatisfactory, being office use with only a café at ground level. A greater proportion of the ground floor should be in retail or other services uses benefiting residents and workers given the size of the development at 12,000 square metres, and the length of street frontage which is 67.5 metres on Mount Street Lower and 29.5 metres on Grattan Street.
- The proposed development, with its increase in height over the existing development would seriously injure the residential amenities of the Madison Court apartments by reason of overbearing impact, overlooking and perceptions of overlooking of individual units and communal amenity space from the interior of the building and the roof top external space to which occupants may have access.

- The reduction in the existing separation distance from twenty-six to twenty metres between the new development from the south elevation of Madison Court Apartments increases overlooking of amenity space and the residential units. The opaque glazed fritting proposed in the further information submission for glazing for the upper sections of windows on south and west elevations is not satisfactory. Section FF is not representative of the twenty metres separation distance between the two lower floors and Madison Court (calculated by the applicant's agent.) The standing figure is positioned over two metres from the windows for the third and fourth floors and no figures are shown on the lower floors and is not demonstrated that light dot fritting would have material effect.
- The proposed development would seriously injure the amenities of the communal amenity space at the Madison Court apartments. The availability of the communal amenity space is critical from an amenity perspective for the residents because the levels of private amenity space for the Madison Court apartments is deficient having regard to the standards in "*Sustainable Urban Housing: Design Standards for New Apartments- Guidelines for Planning Authorities*" (2018) The available space is an area of 132 square metres in the eastern half of the complex, bisected by a footpath which is essential for passive recreational purposes and for adequate access to sunlight but it will be reduced by the increased height of the proposed block compared to the existing block . The lodged sunlight and daylight analysis shows that the area has less than the recommended level of sunlight of 50% of the area for more than two hours on March 21st according to BRE guidance: *Site Planning for Daylight and Sunlight – A good Practice Guide*. BRE 2009) With the new development in place there would be a serious deterioration in the amount of sunlight access at forty percent of the space, relative to the existing baseline condition and with the regard to the standards in Appendix F of the BRE guidelines where sunlight access would be reduced to one per cent receiving two hours of sunlight March 21st.
- The amenities at Madison Court would be adversely affected during the demolition and construction stage. Residents working at home will be affected by noise at the development site and generally there are concerns about the

environmental quality and amenity due to noise and dust emissions having regard to use of machinery for excavation and construction. Detailed assessment and mitigation measures will be required to protect the amenities of the adjoining residential properties.

- The proposed termination of the existing vehicular access arrangements via the existing entrance on Grattan Street is not acceptable. The Appellant do not accept the proposed alternative arrangements which involves use of an access via a sliding gate opening onto Grattan Court on the northern boundary which is also the primary access for services access and for the development's carpark. Visibility at the entrance is unsatisfactory and the use of the carpark would therefore be hazardous.

5.3. Appeal by Grainne Hynes

5.3.1. An appeal was lodged on her behalf by Ms Hynes on 6th January, 2021 in which she states that she is the occupant of No 6 Madison Court. According to the appeal:

- The development proposed is an expansion which is excessive in scape and an encroachment that is detrimental to Madison Court which is unreasonable. It will directly overlook the habitable rooms in the apartments in Madison Court, from the rooftop and the floors within the building. It will overshadow Ms Hynes apartment on the second floor at Madison overlooking the garden and loss of light to the front of it will be caused by the overhanging element over the footpath.
- The relocation of the vehicular entrance proposed is unacceptable to residents of Madison Court as it is off a dark narrow side street with safety implications for residents. There is already a shortage of parking spaces available to residents.
- Construction stage noise and disruption are and it is requested that the developer not be permitted to operate machinery before 8.00 am on weekdays or at weekends.

5.4. Applicant's Response.

5.4.1. A submission was received from Sheehan Planning on behalf of the applicant on 2nd February, 2021. Appendices attached include, 'Drawing Queries and Design issues' by applicant's Architects (Appendix 2); Solicitor's response on proposed change of Access Route and requirement for third party consent. (Appendix 3); Engineer's response on safety of the proposed change of Access Route (Appendix 4); Precedent examples of co-location of office and residential use. (Appendix 5.) and Response to Sunlight and daylight issues. The submission's contents are outlined below:

- With regard to the existing access route through the site and entrance off Grattan Street, the claim by the appellant regarding the obligation to keep the original route is contrary to the Indenture between Madison Estates and Bank of Ireland Trust Services Ltd. (now vested in IPUT). is not accepted. It is demonstrated in the Solicitor's response regarding the right of way that the applicant has the right at its discretion to provide reasonable alternative means and the change the route of the access. Clause 4 of the Indenture also entitles IPUT to change the position of the entrance. Discretion to close the route on a temporary basis for maintenance purposes is an additional entitlement of the applicant. The applicant has been fully satisfied that the proposed sliding gate is satisfactory with regard to visibility on entering and exiting the carpark.
- With regard to Safety of the proposed access route the matter was addressed to the satisfaction of the Transportation Planning division in the further information submission. In the engineer's statement (in Appendix 4) it is confirmed that the access arrangements were extensively reviewed. The layout provides for uninterrupted and unobstructed access to the nine parking spaces at construction and operation stages and a satisfactory layout for egress and access is demonstrated in the auto track swept path analysis and there is a wider area manoeuvring. The siding gate assists with safe access.
- With regard to services and pumping in the engineer's statement (in Appendix 4) it is confirmed that a temporary water (7500 litre capacity) and twin pump booster set are to be installed when the existing water pump and water tank

are removed. There is no interdependency with the development site's infrastructure. Comprehensive surveys were undertaken on below ground utilities and details are included in the application submission service report. There is a 150 diam combined sewer within the amenity space at Madison Court which discharges to Grattan Court East and a 150 diam foul sewer serving Ballagh House which is to be decommissioned. A 100 mm diam foul sewer to the north of Madison Court along Grattan Court East combines into the 150 mm diam sewer in the open amenity space. and serving the apartments will be retained.

- With regard to construction stage impacts, the outline construction management plan submitted indicates satisfactory arrangements in accordance with best practice and with mitigation measures in respect of health and safety, access and egress, hours of work, dust dirt, noise and vibration. The final construction management plan will be drawn up following appointment of a contractor and it will be subject of a compliance submission. The contractor will comply with Condition No 6 (attached to the planning authority decision) which confines the hours of operation to 0800 to 1800 hrs Mondays to Fridays and 0800 to 1400 hrs Saturdays.
- With regard to co-location with residential use, (having regard to appendix 5) there is precedent to be taken from other permitted developments. Examples are the (ESB HQ at Fitzwilliam Street, where the office development of five storey is within five metres: Residential use, at a building on Mount street within ten metres of a five-storey office development. Residential use at a building on Hatch Lane and Adelaide Road is within ten and eleven metres of a six to seven storey development office development.
- The elevations, (considered to be misleading by the appellant's agent) are titled by orientation and the sections and boundaries of the site are appropriately identified. Provision of additional verified views from Madison Court are not warranted. The appropriately dimensioned separation distances are accurate and are appropriate separation distances for a city core location.
- The roof terrace has been specially designed with screen planting provided so that overlooking from it towards the residential development is prevented.

The graduated fritting to the north elevation windows is a proven means of screening of views into and out of buildings which prevents overlooking of the communal amenity space serving the apartments.

- With regard to sunlight and daylight in the Engineer's statement in Appendix 6 it is stated that it is satisfactorily demonstrated in the analysis which includes graphics submitted to the planning authority, with regard to BRE Guidance, that there is minor impact in daylight and sunlight on surrounding buildings at pre and post construction stages which is typical for city centre areas. It is demonstrated that there is an impact on the communal amenity space but good levels of sunlight at 6 to 8 hours during summer, is retained, similar levels as existing conditions in March are achieved in April. In order to overcome this impact, it would be necessary for significant reduction in scale and massing on the Mount Street elevation would be necessary.

5.5. Planning Authority Response

There is no submission from the planning authority on file.

5.6. Further Responses Madison Estates CLG.

- 5.6.1. A further submission in response to the appeal by Grainne Hynes was received from the applicant's agent on 4th February, 2021 in which it is stated that Madison Estates CLG concurs with the objections raised in Ms Hynes' appeal. The issues of objection raised in the appeal submission are reiterated and it is also submitted that additional requirements should be imposed, by condition if permission is granted to provide for pre and post demolition and construction dilapidation surveys for Madison Court, noise monitoring programmes, and limits and vibration monitoring programmes with appropriate controls and construction traffic routing, hours and maintenance and restriction on activities to Mondays – Fridays between 8.00 am and 18.00 pm.

6.0 Assessment

- 6.1. There are two appeals against the decision of the planning authority to grant permission, one from IPUT on behalf of the Madison Court Apartment development

and the other from Grainne Hynes a resident of one of the apartments on the second floor of Madison Court and their objections overlap. The issues central to the determination of the decision can be considered below under the following sub-categories:

Development proposal in principle.

Overdevelopment

Design Mass, Form and Height Visual Impact – Public Realm.

Impact on Residential amenities of the Madison Court Apartment Development. (Transitional Zonal Areas)

Impact on the Madison Court Apartment Development – Overlooking.

Impact on the Madison Court Apartment Development – Overshadowing.

Access and Parking

Existing and proposed services infrastructure.

Demolition and Construction stage impacts.

Environmental Impact Assessment Screening

Appropriate Assessment Screening.

6.2. Development proposal in principle.

- 6.2.1. The proposed redevelopment on the site entailing demolition in entirety, as opposed to refurbishment and construction of a contemporary replacement block for current day office use is acceptable in principle. It allows for achievement of contemporary standards for construction, use, energy efficiency, intensification of occupancy according to current standards and requirements of current day technologies. The proposal accords with national and local strategic policy for providing consolidation of the city and development on underutilised and vacant sites. The use mix which is primarily a continuation of office use but incorporates café at the ground floor level is consistent with the zoning objective and provides for adequate active frontage and local services for workers based at the building, and at residential and commercial development in the vicinity. The incorporation of the café is considered sufficient for the location although it is contended in one of the appeals that additional space

should be allocated to use for local services and facilities, due to the extensive street frontage.

6.3. Overdevelopment.

- 6.3.1. Relative to the existing development, the proposal development relative to the existing development provides for a greater footprint, scale, mass, height and intensity of the established office use and introduces the ground floor café use.
- 6.3.2. Both the site coverage at sixty-seven per cent which is greater than the indicative maximum of sixty per cent and proposed plot ratio at 3.13 is greater than the indicative range of 2.0 – 3.0 provided for in section 16.5 of the CDP are not excessive and are considered reasonable having regard to the accompanying criteria in the CDP which allows for flexibility having regard to the central business district location, surrounding development, availability of transport and facilities. A similar flexibility in this regard has been applied to permit considerably higher plot ratios and site coverages for commercial developments in central business districts where a development satisfies the relevant CDP's criteria within the CDP and qualitative standards.
- 6.3.3. The proposed height at 23.7 metres maximum represents an increase on the existing block's height of eighteen metres but is well below the maximum height of twenty-eight metres and does not exceed seven storeys as provided for in section 16.7.12 of the CDP and does not exceed seven storeys. Flexibility in this regard has been applied to central business district developments where a development satisfies the relevant CDP's criteria within the CDP and qualitative standards.

6.4. Design Mass, Form and Height Visual Impact – Public Realm.

- 6.4.1. It is agreed with the planning officer that the proposed building, notwithstanding the increased size and height relative to the existing structure would represent a positive insertion into the streetscape along Mount Street of uncomplicated contemporary design and rhythm incorporating contrasting but complementary material and finishes and setbacks and definition to the corner of Grattan Street where there is capacity to accept increased height as demonstrated in the visual impact assessment views. There is a significant increase in visibility of the proposed structure relevant to the existing structure, due to height, finishes and mass in some views as demonstrated in the Visual Assessment, (views 9, 15, 16, and 18). For the

receiving urban environment, there is relatively neutral visual impact, and arguably, for other views such as No 17 from the north, a positive impact and closer and far range views along Mount Street. Furthermore, the proposed development identifies with other recently developed contemporary office developments, many of which are replacements for similar developments constructed in the 1970s 1980s. The proposed development would also and enhance the streetscape along Grattan Street, Grattan Court East on which there is a mix of residential and commercial development. There is no objection to the development to this end.

6.5. Impact on the Madison Court Apartment Development. Transitional Zonal Areas.

- 6.5.1. With regard to avoidance of abrupt transition between zonal areas or as provided for in section 14.7 it is noted that the site of the Madison Court Apartment development which is subject to the zoning objective 'Z1' *To protect provide for and improve residential amenities*, the more environmentally sensitive zoning than the "Z6" zoning for the application site. The proposed new building is considerably larger in form and mass and more intensive development than the existing development. The larger footprint results in a reduced separation distance to the Madison Court Apartment development, there is the increased height and introduction of a roof garden representing significant change.
- 6.5.2. However, even with these differences between the existing and proposed developments, the Madison Court Apartment development is a six and seven storey corner site block it is considered that the relationship is not that one of abrupt transition between the proposed development and the Madison Court, or the residential properties in apartments in the immediate vicinity such as the opposite side of Grattan Court East. In this regard the views of the planning officer and the applicant's case to the effect that the proposed development would not be overbearing in impact is considered reasonable and is supported.
- 6.6. With regard to the observations and views expressed in the appeal as to misleading or inadequate details for north and west section drawings, or elevations, it is considered that scope for assessment of the proposals and their consequent effects on Madison Court apartment development are not hindered. Furthermore, in the appeal submission the application submission has been supplemented by the details

provided in Appendix 2 by the applicant's architect in which the street naming conventions and street orientations and site are clarified to facilitate the appellant and further review. It is also agreed, with the applicant's agent that a requirement for submission of additional drawings, and specifically, a drawing of the north elevation, from within the Madison Court Apartments, facing south is unwarranted.

6.6.1. The separation distance from the south façade of the Madison Court building which increases to 22.5 metres at the upper floors from 19.5 at the lower two levels is reasonable for a city core area. As indicated in the applicant's submissions, there are several permitted developments in the city core with similar separation distances from neighbouring buildings in residential use.

6.7. Impact on the Madison Court Apartment Development – Overlooking.

6.7.1. With regard to overlooking potential from the roof terrace, parts of which may be accessible to occupants of the building it is considered that satisfactory screen planting proposals have been made to prevent overlooking of the apartments, and communal amenity space at ground level from the proposed roof terrace. While it is noted that the apartments lack private open space provision commensurate with the standards in the statutory guidance, "*Sustainable Urban Housing: Design Standards for New Apartments- Guidelines for Planning Authorities*" (2018) it should be noted that these standards cannot be applied retrospectively to a long-established development such as Madison Court.

6.8. Mitigation of potential overlooking and potential for overlooking unduly and reciprocally, is addressed in the proposals in the further information submission proposals for graduated fritting. *The* graduated fritting for the fenestration would prevent direct overlooking toward the communal space from the interior of the proposed development. Given these measures it is not considered necessary for floor plan layouts, which can be reordered internally, to be made available for assessment purposes in this regard, Passive overlooking towards the communal amenity space from standing positions within the building would be insignificant and overlooking could only arise where occupants gather at the windows with the intention to view the communal amenity space.

6.9. The scope for overlooking of the internal habitable space of the Madison Court apartments is negligible, given the separation distances from the Madison Court

block's south and east elevation elevations in which the window sizes are small resulting in minimal scope for viewing to the interior. It is considered that these issues in conjunction with the design mitigation incorporated in the proposed development are sufficient to address overlooking and that the proposed development, as proposed is satisfactory in this regard.

6.10. Impact on the Madison Court Apartment Development – Overshadowing.

- 6.10.1. With regard to overshadowing, the Madison Court development is to the north of the existing and proposed block, the footprint of the new block being closer and an additional latter being closer to and higher than the existing block on the site. The existing development is appropriate for the baseline condition for Vertical Sky Component (VSC), Probable Annual Sunlight Hours (PASH) and Sun Hours on Ground (SHOG) in the sunlight and daylight analysis and it is noted that the methodology and extent of analysis which is considered comprehensive appropriate for assessment purposes is based on guidance within for which BRE 209 *Site Planning for Daylight and Sunlight: A Good Practice Guide, 2011* as required under the CDP. The impacts for PASH and VSC of the proposed development on the interiors of buildings are shown to be neutral, negligible or minor as a result of which undue overshadowing of habitable rooms in adjoining residential development is not at issue.
- 6.10.2. However, as is indicated in the analysis the proposed development would result in major diminution of sunlight to the ground over the communal amenity space for the Madison Court Apartments which would be seriously deficient having regard to the recommended standards for best practice in BRE 209. The existing baseline condition for sunlight this space is substandard as it falls short of the BRE standards having regard in particular to enclosed location to the east of the apartment block.
- 6.10.3. The diminution which would be caused by the proposed development is related to the differences in form, height and separation distance from the communal amenity space serving the apartment block but as concluded in the sunlight and daylight study (para 4.2.2) the effectiveness of modifications to the proposed block on Mount Street in reducing the impact the communal amenity space would negligible. This implies that the current baseline conditions could only be retained by retention of the existing building footprint, form and height. The statement that with the proposed

development *in situ*, the communal amenity space would have levels of sunlight in April, similar to the levels in March with the existing building *in situ* and that reasonable levels of six to eight hours would be achieved in summer is noted.

6.10.4. While there is no doubt that the relatively compromised amenity of the communal amenity space serving the apartment block would be materially diminished, it is agreed with the planning officer that on balance, in view of the central city location, current strategic policy for sustainable development by intensification of land-use on underutilised sites with urban centres and the benefits of the proposed development relative to the existing development, the proposed development is acceptable.

6.11. Access and Parking

6.11.1. The contention in the appeal that the applicant does not have entitlement to permanent extinguishment of the right of way, to occupants of Madison Court which would occur if the shared entrance off Grattan Street is closed and an entrance off Grattan Court East is provided use by residents of Madison Court or the case to the contrary on the part of the applicant cannot be confirmed as no documentary evidence to support either party's case is available. As indicated in the report of the planning officer and transportation planning division, the matter which is outside the planning remit can be resolved through the legal system. Furthermore, with regard to the scope of the planning remit, it is clarified within the provisions of section 34 (13) of the Planning and Development Act 2000, as amended that a grant of permission does not include entitlement to implement a grant of permission.

6.11.2. Although the access and egress arrangements are to be altered, the supply and location of parking allocated to the Residents of Madison Court is to remain unchanged. It is also of note that use of the proposed entrance by vehicular traffic would be significantly reduced due to the reduced available on-site parking (fifteen spaces) that will be available on site to serve the proposed development along with services vehicles whereas there would be a major increase pedestrian and cycle use.

6.11.3. It is considered that the revised arrangements for the entrance, access and egress, vehicular circulation, manoeuvrability within the site and parking which the Transportation Division in its supplementary report states is satisfactory with regard

to both the proposed development and the Madison Court apartment development, subject to minor requirements to be addressed by condition.

6.12. Existing and proposed services infrastructure.

6.13. Both the submissions lodged in connection with the application and in response to the appeal indicate satisfactory arrangements for foul and surface water drainage and water supply ensuring that the Madison Court Development is not adversely affected or inconvenienced by way of the proposed development. In this regard, comprehensive surveys undertaken demonstrated no interdependency in existing infrastructure below ground and the proposed measures to include provision of a temporary water tank (7500 litre capacity) and installation twin pump booster set to serve Madison Court when the existing water pump and water tank are removed. Negative consequences for the amenity space serving Madison Court with regard to the sewer network would not arise as details of satisfactory decommissioning and new construction for the sewer network benefitting the apartments has been provided. A 100 mm diam foul sewer to the north of Madison Court along Grattan Court East combines into the 150 mm diam sewer in the open amenity space. and serving the apartments will be retained. The drainage Division has confirmed acceptance of the proposed drainage arrangements in its report at application stage.

6.14. Demolition and Construction stage impacts

6.15. An Outline Construction Management Plan was submitted with the application. The concerns for the occupants of the Madison Court Apartments are understandable given the proximity to the application site. However, the impacts on residential amenities during demolition and construction which occur over a limited period and intermittently, are managed through best practice as provided for in Demolition and Construction Management Plans in which provide for compliance with relevant statutory codes of practice in addition to planning requirements and standards.

6.15.1. The proposed development involves significant demolition, deep excavation, and extensive site preparatory works to facilitate the construction of the development. It is reasonable that preparation and finalisation of a methodology for these works be provided within a comprehensive demolition and construction management plan to be agreed with the planning authority by condition following appointment of a contractor if permission is granted. Submission of these details prior to

determination of a decision and/or appointment of the contractor would be unwarranted.

6.15.2. Control of noise disturbance and air pollution comes under separate specific codes compliance with which are standard requirements and are addressed in a comprehensive demolition and construction management plan, and construction traffic management. These are supplemented by planning requirements, such as management of hours of works, specifically to ensure, clarity as to protection residential amenities as is the case with the subject proposal and the wider interests of proper planning and sustainable development.

6.15.3. Although it is requested in one of the appeals that works not be permitted on Saturdays, it is considered reasonable that the standard condition which allows for work on Saturdays, 8.00 am to 14.00 pm be attached, should permission be granted.

6.16. Environmental Impact Assessment Screening.

6.16.1. Having regard to the nature of the proposed development and its location in a serviced inner suburban area in the city, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.17. Appropriate Assessment Screening.

6.17.1. The application was accompanied by a screen report which has been reviewed for the purposes of appropriate assessment screening. The nearest European Sites are the North Dublin Bay and South Dublin Bay SACs and the South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA to which the only potential pathway is via surface and foul water drainage or dust by air pathways, emanating from the development. No disturbances to habitats or species or density of species would be likely at European sites or changes to water quality. Having regard to the site location and, to the nature of the proposed development in a serviced inner suburban area in the city, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.0 Recommendation

7.1. In view of the foregoing, it is recommended that the planning authority decision be upheld and that permission be granted based on the following reasons and considerations and conditions.

7.2. Reasons and Considerations

Having regard to Dublin City Development Plan 2016-2022 according to which the site location is subject to the zoning objective: *“Z6 to provide for the creation and protection of enterprise and facilitate opportunities for employment creation”*: to the statutory guidance: *“Urban Development and Building Heights: Guidelines for Planning Authorities”, 2018*”; to the central city location, to the existing development on the site and, to the established character and pattern of development in the area it is considered that, subject to compliance with the conditions set out below, the proposed development would accord with national strategic planning policy and local policies and objectives for the area, would not adversely affect the visual amenities of the area or seriously injure the residential amenities of the adjoining apartment development at Madison Court or residential properties in the vicinity would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

8.0 Conditions

1. The development shall be and shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars lodged with the planning authority on 9th November, 2020, except as may otherwise be required in order to comply with the following conditions Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Two car parking spaces shall be omitted providing for a maximum of fifteen spaces within the site. Car parking spaces shall be permanently allocated to the proposed use and shall not be sold, or otherwise sub-let or leased to other parties. Prior to the commencement of development, the applicant shall submit and agree a revised basement layout plan in writing with the planning authority.

Reason: In the interest of sustainable transportation and sustainable development.

3. Prior to the commencement of the development, a fully detailed Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. The strategy shall provide for incentives to encourage the use of public transport, cycling, and walking by patrons and staff and shall be operated, monitored and reviewed by the operator of the development.

Reason: In the interest of sustainable transportation and travel and the amenities of the area.

4. Prior to the commencement of development, detailed design and specifications including marking, signage and layout of the proposed site access, and footpath arrangements shall be submitted to, and agreed in writing with the planning authority. These works shall be fully implemented prior to occupation of the building.

Reason: In the interest of pedestrian and vehicular safety and convenience.

5. Prior to the commencement of the development, fully detailed Servicing Management Plan shall be submitted to and agreed in writing with the planning authority. The implementation of the measures provided for in the plan shall be managed, monitored and reviewed by the operator of the development.

Reason: In the interest of pedestrian and vehicular safety and convenience.

6. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes shall be submitted to and agreed in writing with the planning authority. Sample panels shall be displayed on site for inspection by the planning authority.

Reason: In the interest of orderly development and the visual amenities of the area.

7. Water supply and drainage arrangements, including the disposal of surface water incorporating Sustainable Drainage Systems shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

8. The applicant shall obtain water and waste-water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

9. Prior to commencement of development the developer shall submit, and agree in writing with the planning authority to, a plan for the management of waste within the development, including details of proposals for separation, facilities for storage, and arrangements for collection of the waste and, ongoing operation of these facilities.

Reason: In the interest of clarity, amenity and waste management.

- 10 All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and visual amenities of the area.

- 11 Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 (as amended), no additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant or the erection of telecommunications equipment other than those already shown on the drawings submitted with the application, unless authorised by a prior grant of

planning permission. In addition, the precise details of the proposed signage, size, materials, method of illumination if any proposed, shall be submitted to the planning authority for their written agreement prior to commencement of development, any additional signage shall be the subject of a separate planning application.

Reason: In the interest of visual amenity and residential amenities.

12. Site development and building works shall be carried between the hours of 08.00 hrs and 19.00hrs, Mondays to Fridays excluding bank holidays, and 08.00 hrs and 14.00 hrs on Saturdays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of residential amenities.

- 13 The construction of the development shall be managed in accordance with a Demolition and Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The Plan shall include details of the following:

Location of the site and materials compound.

Location of areas for construction site offices and staff facilities.

Site security fencing and hoardings.

Demolition and construction traffic routing and management and associated directional signage.

Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

Arrangements for Containment of construction-related fuel and oil

Arrangements for storage and removal of construction and demolition waste and measures for management of surface water run-off.

Mitigation measures for management and monitoring of noise, dust and vibration.

Arrangements to ensure compliance with the standards in, British Standard 5228 '*Noise Control on Construction and Open Sites, Part 1. Code of practice for basic information and procedures for noise control.*'

A monitoring system and record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of orderly development, public amenity and safety

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

Reason: To ensure the satisfactory completion of the development.

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

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Jane Dennehy
Senior Planning Inspector
13^h May, 2021.