



An
Bord
Pleanála

Inspector's Report

ABP-309280-21

Development	Demolition of single storey building and construction of 13, 1 bed apartments.
Location	Mount Dillon Business Park / Commercial Yard, Brookville Park, Malahide Road, Artane, Dublin 5
Planning Authority	Dublin City Council North
Planning Authority Reg. Ref.	3622/20
Applicant	Michael Moran
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Michael Moran
Observers	Mount Dillon Neighbours Group Sean Haughey TD
Date of Site Inspection	02 nd June 2021
Inspector	Máire Daly

1.0 Site Location and Description

- 1.1. The subject site which has an area of 1,432sq.m is located off Brookville Park, which runs adjacent and parallel to the Malahide Road (R107 regional road) in the Artane area of north Dublin city, approximately 5.4km northeast of the city centre. The site occupies a backland area, set back from the primary streets and connected to Brookville Park by a laneway ranging in width from 3.8 metres to 5.1 metres in width.
- 1.2. The site is occupied by an existing business park/commercial yard with an 'L-shaped' single-storey building located along the western and northern boundaries. This building is divided into 10 individual units, of varying widths with roller door entrances which accommodate a range of commercial uses, including premises associated with motor repairs and car washing. Parking for 14 vehicles, set down and turning areas are provided to the front of the commercial units.
- 1.3. The business park adjoins residential properties, including two-storey terraced housing in Ardbeg Park located to the west and the north, two-storey semi-detached housing along Brookville Park located to the east and two-storey flat blocks for senior citizens located in Mount Dillon Court to the south. A laneway which runs to the rear of the houses along Ardbeg Park terminates at the sites southwestern corner. This laneway is however fenced off so no access to the site is provided via this southwestern corner. A commercial premises adjoins the access laneway to the south. The boundaries to the site comprise block walls 2m to 3m in height and is flanked along the southside of the access laneway by a hedge. A cul de sac and turning area for the Mount Dillon Court housing estate abuts the south western side of the site.
- 1.4. The surrounding Artane area is characterised by two-storey housing from differing eras, with several housing estates in the vicinity served by laneways to the rear. Numerous frequent Dublin Bus services operate along the Malahide Road connecting this area of the northern suburbs with the city centre.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:

- demolition and removal of all buildings on site with a stated gross floor area (GFA) of 414sq.m;
- Construction of part one storey, part three storey building of 764sq.m gross floor area and height of 8.860 metres, comprising 13 no. 1 bedroom apartments with balconies to front and rear, lift, solar panels;
- Landscaping, rainwater tank and soakaway;
- 13 no. associated car parking spaces to front (south) of apartment block;
- Existing access from Brookville park and new vehicular access from Mount Dillon Court and all associated works.

2.2. The Board should note that there have been some amendments to the above proposal under appeal:

- The applicant now proposes to provide a 2-metre set back on the eastern end of the proposed second floor which will see a reduction in the number of apartments from 13 to 12. A two-bedroom apartment will be created for no.12 with an area of approx. 80sq.m. The applicant has submitted drawings with the appeal showing an indicative red line where the set back is to be located, however no accurately revised floor plans, elevation, sections or block plans have been submitted.
- An increased set back (as a result of the removal of the previously proposed lift shaft) to c. 5.1 metres from a previous c.3.6 metres is proposed at first and second floor level on the western side of the building as per drawing no. 1120-PP-A-03.
- The height of the building has also been reduced from that originally proposed from 8.86 metres to 8.61 metres.
- The elevations of the proposed building have also changed with the previously proposed lift shaft and access deck to the 1st and 2nd floors now removed (see drawing no. 1120-PP-A-03). In addition, all apartments at 1st and 2nd floor level now have separated individual balconies and no longer have shared deck access along the front of the apartments on the southern (front) elevation.

- Given the removal of the lift shaft, access to all apartments is now only provided via the internal stairways, amounting to four separate stairways in total, accessing two apartments each, one at 1st floor level and one at 2nd floor level, apart from access to Unit 12 which will only require stair access for one apartment at 2nd floor level on the eastern side of the building.
- In addition, the revised Block Plan (drawing no. 1120-PP-A-08) submitted with the appeal appears to omit the communal open space to the rear (north) of the apartment building and now instead proposes to extend the rear private open space for the ground floor apartments for the entire length of this area. Five separate rear garden areas now appear to have been created. No indication is given as to where the previously proposed rainwater tank and soakaway are to be contained under this revised proposal.
- The layout of the second floor appears to have been amended. The location of the kitchen/dining/living room area for these units is now to be positioned to the rear of the building, facing north with direct access into the apartment via the stairwell (drawing no. 1120-PP-A-03).

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused permission for the following two reason:

1. *Having regard to the overall design and layout of the proposed development, it is considered that the proposed development would cause significant overlooking of adjacent property including dwellings on Ardbeg Park to the North and Brookville Park to the east and due to the proximity of the three-storey apartment block to the boundaries of neighbouring dwellings particularly to the east, the proposed development would have an overbearing and obtrusive appearance when viewed from the neighbouring dwellings. As a consequence, the proposal would therefore be unacceptable and would set a precedent for other such substandard developments in the area. The proposed development would therefore, seriously injure the amenities of*

property in the vicinity, be contrary to the Dublin City Development Plan 2016-2022 and the proper planning and sustainable development of the area.

2. *The proposed development, by reason of design and layout, including an inappropriate mix of apartment types, private open space with low amenity level, insufficient privacy and security to apartment units, communal open space of low amenity potential with poor accessibility and lack of clarity on parking and servicing would fail to establish a satisfactory standard of amenity for future occupants and would not deliver a quality apartment development. The proposed development is therefore, contrary with the relevant provisions of the Dublin City Development Plan 2016-2022 and the provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities' (DOHPLG, 2018) and the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The recommendation to refuse permission in the Area Planner's Report (December 2020) reflects the decision of the Planning Authority. The following is noted:

- The site is zoned 'Z1' 'Sustainable Residential Neighbourhood' under the current development plan and therefore the proposal is considered acceptable in principle subject to assessment of relevant criteria.
- Given the sites proximity to the Malahide Road which is a main arterial route to Dublin city centre and the provision of services in the area the density proposed at 93 units per hectare is considered acceptable.
- The proposed apartment development appears to largely follow the footprint and rear and front building lines to the previously permitted development under DCC ref: 2427/17 for 5 terraced dwelling houses.
- It may be appropriate to consider alternative positioning and layout of the apartment block which may allow a better relationship with communal open space.

- The design of the proposed block has a clinical appearance and would benefit from a greater level of architectural detailing. Overbearing impact of blank eastern and western elevations are raised as an issue by observers.
- Although acknowledged that the development is located in a backland location, nonetheless high standards of design should be achieved to ensure sufficient integration with the character of the surrounding area.
- No daylight or sunlight analysis was submitted as part of the application and it is noted that several amendments by way of condition were imposed on the heights of the dwellings permitted by the Board under the previous permission on site (DCC ref: 2427/17, ABP Ref: 300574-18). In particular the eastern and western ends of the permitted terrace had been reduced to 2 storeys and one storey in height respectively.
- The provision of a 3-storey apartment block within such close proximity to neighbouring dwellings to the east would result in overbearing impacts.
- Concerns expressed in relation to inadequate separation distances and overlooking from the proposed apartments on adjoining residential development at Brookville Park and Ardbeg Park.
- Issues noted in relation to the legal ownership of the existing access laneway and the proposed southwest access and if consent has been provided.
- The proposed unit mix and overall design for the apartment scheme is not of a sufficient quality to allow in this instance compliance with Specific Planning Policy Requirement (SPPR) 2 of The Apartment Guidelines (2020).
- The floor areas of the units comply with SPPR 3.
- The minimum storage areas required under Section 3.31 of the guidelines do not appear to be met.
- No privacy strip has been provided to the front of the proposed ground floor apartments; the security of these apartments is a concern.
- The width of the proposed access stairwells at 0.9m is a concern.
- Concerns also raised in relation to shared deck access from the lift to the apartments at first and second floor levels. Alternative options involving

provision of a mix of larger apartments to reduce the number on each floor or provision of another lift on the eastern side of the building were suggested by the area planner.

- No details relating to the management, maintenance or operation of development as required under section 16.10.1 of the Development Plan and Sections 6.11- 6.15 of the Apartment Guidelines have been submitted. In addition, no building lifecycle report was submitted.
- The current positioning of refuse facilities is not in accordance with the Apartment Guidelines.
- No details have been provided relating to the boundary treatment to the private open space to the ground floor level units, which should be provided to ensure there is adequate levels of security and privacy.
- The location of the proposed areas of private open space off the master bedrooms at ground floor level is considered to be contrary to the requirements of the development plan and the guidelines.
- Uncertainty regarding screening to be provided between the apartment balconies.
- Concerns regarding the access to the area of communal open space, with a 0.8m wide access it is uncertain if this would meet Part M building regulations. Also access for wheelchair users and maintenance equipment may be impeded. No landscape plan provided for the communal open space area.
- Given the size of the site a financial contribution in lieu of public open space is considered acceptable.
- No details of boundary treatments to the proposed apartment development have been submitted.
- Significant concerns in relation to access were highlighted by the Transport Planning Division (TPD), safe access/egress and manoeuvrability of vehicles, no provision for pedestrians as part of access, no bicycle parking is proposed as part of the development, insufficient details of legal interest for proposed access off Mount Dillon Court and adjoining lands provided.

- Concerns in relation to surface water drainage on site and flood risk – A site specific flood risk assessment for the site should be completed.
- An agreement in principal to comply with their Part V requirement has been reached.
- In conclusion, it was considered that the proposed development was contrary to policies, standards and requirements for apartment developments outlined in the Dublin City Development Plan 2016-2022 and the Apartment Guidelines 2018. The proposed development would require significant alterations essentially providing an alternative scheme; therefore, it was not considered appropriate to request further information and a refusal was recommended.

3.2.2. Other Technical Reports

- Engineering Department (Drainage Division) - Report dated 17/11/2020 recommended further information in relation to the following:
 - Insufficient information in relation to storm water management was submitted – the applicant was requested to consult with the drainage department in relation to same prior to resubmitting revised plans. The department stated that permission should be withheld until satisfactory drainage information is submitted and approved.
 - The Drainage Division indicates that the proposal for management of surface water is not acceptable and the development is to be drained on a completely separate system with surface water discharging to the public surface water system.
 - An appropriate Site-Specific Flood Risk Assessment, (SSFRA), in accordance with the November 2009 OPW Guidelines, shall also be carried out for the proposed development.
 - The Division also recommended that an appropriate petrol interceptor shall be installed on the internal drain from the car park.
- Transportation Planning Division - Report received dated 02/12/2020. The following concerns were raised, and 4 points of further information were requested:

- The division highlighted significant concerns relating to the layout of the proposed car parking and bin storage area and concerns in relation to the lack of adequate space to allow for the safe access, egress and manoeuvrability of both the car parking spaces and also emergency service vehicles, refuse vehicles and delivery vehicles. Auto track drawings should be submitted.
- In addition, concerns were raised regarding the width of the access laneway from Brookville Park and the intensification in use of same lane and lack of provision for pedestrians. It was also recommended that the applicant submit details as to how the use of the access will be managed in order to give priority to incoming vehicles and avoid a situation where vehicles reverse onto Brookville Park.
- In relation to the proposed new access from Mount Dillon Court which requires the removal of an existing planted area that lies outside of the applicant's ownership, the TPD recommend that the applicant be requested to confirm that they have sufficient legal interest/consent to remove this planted area in order to provide a new vehicular access the subject site. In addition, provision for pedestrians should also be provided at this entrance.
- In addition, the applicant was requested to provide cycle parking to a minimum of Development Plan standards and demonstrate the ability to provide cycle parking in line with the DHPLG New Apartment Guidelines, 2018.
- The Environmental Health Officer - Report dated 18/11/20 recommended a number of conditions in the event of a grant of permission which related to hours of work, noise levels during both construction and operation and air quality during construction.

3.3. Prescribed Bodies

Irish Water – no response.

3.4. Third Party Observations

3.4.1. 5 no. submissions were received during the consultation period for the application, the majority of which were from residents and local representatives of the Artane area. The key issues raised are summarised as follows:

- Impacts on residential amenity – overlooking, overshadowing, impact on Mount Dillon Court Senior Citizens accommodation, impact on access and future development of other backland sites.
- Visual Impact – over-scaled, bulky and obtrusive.
- Flooding, Drainage and Structural Issues – flooding to No.'s 1-6 Brookville Park. Concerns relating to structural integrity of existing boundary walls.
- Transportation – Issues with access to subject site through Mount Dillon Court and also the narrow existing access laneway which does not have sufficient width for two cars.
- Legal rights of way and legal interest for the proposed access gateway need to be clarified.
- Devaluation of property.
- Refuse storage facilities insufficiently detailed.
- Details for proposed solar panels have not been outlined or included on drawings nor have the proposed finishes to the building or any landscaping scheme for the subject site.

4.0 Planning History

4.1. Pre-planning:

- The Planner's Report states that no pre-planning meeting has been undertaken for the planning application and no evidence of any meetings has been included with the appeal documentation.

Appeal Site:

- ABP Ref: 300574-18 (DCC Ref. 2427/17) – Permission **granted** in July 2018 for demolition of existing commercial buildings & the construction of

residential development of 5 two to three storey / attic terraced houses with pitched roofs, dormer windows to front, velux windows to front and to rear and renewable energy units; for 10 parking spaces to front, landscaping / planting, with existing vehicular access & associated site works.

Condition no.3 required the omission of the first-floor level from the proposed western end house, omission of second floor (roof) level windows and reduction in roof ridge height by 1 metre. Obscure glazing and restricted opening to side windows.

Condition no. 4 required a comprehensive boundary treatment and landscaping scheme to be submitted to the planning authority for agreement.

- ABP Ref: PL29N.128080 (DCC Ref. 2263/01) - permission **refused** in June 2002 for three temporary storage units due to their impact on local amenities.

4.2. Surrounding Area

- 4.2.1. Reflective of the urban context, there have been numerous applications in the immediate area for both residential and commercial developments.

5.0 Policy Context

5.1. National Policy and Guidelines

- 5.1.1. The following planning guidance and strategy documents are relevant:

- National Planning Framework (NPF) – the Government’s high-level strategic plan for shaping the future growth and development of Ireland to the year 2040;
- Eastern and Midland Region Spatial and Economic Strategy (June 2019);
- Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG 2018);
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (DHPLG December 2020).
- Urban Design Manual, A best practice guide (DEHLG May 2009);

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009);
- The Planning System and Flood Risk Management – Guidelines for Planning Authorities (Office of Public Works, 2009);
- Quality Housing for Sustainable Communities (DEHLG 2007);
- Design Manual for Urban Roads and Streets (DTTaS and DoECLG, 2019 (latest revision));

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

- BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (Building Research Establishment Report, 2011) and;
- BS 8206 Lighting for Buildings, Part 2: Code of Practice for Daylighting'.

5.2. Development Plan

5.2.1. The operative development plan is the Dublin City Development Plan 2016-2022. The appeal site has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods', with a stated objective '*to protect, provide and improve residential amenities*'

5.2.2. Under Policy QH1 of the Development Plan, the Planning Authority will have regard to various Ministerial Guidelines, a number of which are listed in Section 5.1 above. The following policies are also considered relevant:

- Policy SC13 - promotes sustainable densities with due consideration for surrounding residential amenities.
- Policy QH5 – addressing housing shortfall through active land management.
- Policy QH6 – sustainable neighbourhoods with a variety of housing.
- Policy QH7 – promotion of sustainable urban densities.
- Policy QH8 – promote the development of vacant and under-utilised sites.
- Policy QH10 - discourage gated residential developments
- Policy QH11 – promotion of safety and security in new developments.

- Policy QH13 – new housing should be adaptable and flexible.
- Policy QH18 – support the provision of high-quality apartments.
- Policy QH19 – promote the optimum quality and supply of apartments.

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

- Section 4.5.3 – Making a More Compact Sustainable City.
- Section 4.5.9 – Urban Form & Architecture.
- Section 9.5.4 – Sustainable Urban Drainage Systems (SUDS).
- Section 16.2 – Design, Principles & Standards.
- Section 16.10 - Standards for Residential Accommodation.
- Section 16.2.2.2 – Infill Development
- Section 16.10.8 – Backland Development
- Section 16.38 – Car Parking Standards Table 16.1 (Zone 3 – maximum of 1.5 spaces per residential unit) & Cycle Parking Standards Table 16.2 (minimum of one space per unit). Section 16.38.9 of the Development Plan outlines ‘design criteria’ relating to the layout of car parking spaces.

5.2.4. The site is located in Flood Zone C.

5.3. **Natural Heritage Designations**

5.3.1. None relevant.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. A first party appeal has been submitted in respect of the decision of Dublin City Council to refuse permission for the proposal. As part of the appeal the applicant has attempted to also address the concerns raised by the 3rd parties on the original application. The following provides a summary of the applicant’s response to the third-party appeal concerns and also to the applicant’s 1st party grounds of appeal:

- The development will enhance local amenity, removing a commercial use from the area and introducing a modest residential development. There has been no evidence provided by the 3rd parties to support claims of devaluation of surrounding properties as a result of the development.
- Access will not be blocked in anyway.
- The development is modest in scale and with the setbacks proposed as part of the amendments presented under appeal this will make it even more so.
- The previous permitted development on site was approved following a detailed shadow and daylight study and in view of the concerns of the neighbours a 2 metre setback is now proposed at second floor level on the eastern side reducing the number of apartments to 12 and providing a two bedroom apartment at no.12 of 80sq.m area and thus improving the overall apartment mix of the development.
- The scheme structural/civil engineers have been liaising with DCC drainage department and all of their requirements will be met in full including design details to be in compliance with Part A of the building regulations for the boundary wall concerns raised by the 3rd parties.
- The site is on higher ground and has no drainage/flooding issues.
- The proposed development will have a fraction of the traffic associated with the busy commercial business currently operating. In addition, the new additional access will further enhance access and is clearly an improvement which will benefit all of the residents, refuse/maintenance and emergency services.
- In response to the 3rd party concerns regarding legal rights of way and legal interests for the proposed gates access – all of the access is fully owned by the applicant, as was confirmed previously and no evidence has been provided to back up these third party claims of ownership.
- All service details will be dealt with as part of the working drawings stage in conjunction with the various utilities, including refuse, lighting ESB etc.

- With regard to the third-party concerns in relation to the dimensions and mounting arrangements of the proposed solar panels, details like these are regularly dealt with as part of conditions on the final grant of permission and compliance with same.
- The proposed apartment development largely follows the footprint and rear and front building lines to the permitted development under Reg. ref. 2427/17 as was agreed with the DCC Planning Department in advance of making this application.
- Details will be furnished by way of condition prior to construction/occupation as regards to management, maintenance or operation of the development as required under Section 16.10.1 of the Development Plan and sections 6.11-6.15 of the Apartment Guidelines.
- Additional communal storage for bicycles and gardening equipment may be constructed in the form of a communal shed structure as part of the shared open space.
- It is considered that the current positioning of the bin area is adequate, and screening will be provided as per standard conditions.
- The applicant is satisfied that given there are two access points that the concerns of the Transportation Planning Division of DCC can be met.
- Screening of up to 1.8 metres in height is to be provided between each balcony and at the eastern and western ends of those relevant balconies is to be provided to address any overlooking issues.
- Boundary treatment will be agreed with DCC and will be of sufficient height to ensure a high quality of residential amenity for existing dwellings and for occupants of the new apartment development.
- DCC have agreed to the proposed new access from the site and they have full legal interest/consent to remove this planted area in order to provide a new vehicular access to the subject site. The applicant has met with the Roads Dept and are satisfied that their standards can be complied with in full.

- The development shall limit storm water discharge from site to 2 litres/second and an appropriate petrol interceptor shall be installed on the internal drain from the car park.
- An appropriate Site-Specific Flood Risk Assessment in accordance with OPW Guidelines shall be carried out for the proposed development. All requirements of the drainage department of DCC shall be complied with as part of working drawings and conditions compliance.
- In response to the planning authorities concerns in relation to non-compliance with SPPR 2 the applicant states that they believe with the proposed revision to 12 units and the set back of the east side at second floor, the development is now compliant with the development plan and all discretions contained therein and reference to SPPR 2.
- It is considered that the proposed development with the suggested revisions omitting apt unit no. 13, creating a set back and revising apt unit no. 12 to a 2 bed unit is compliant with the policies, standards and requirements for apartment developments outlined in the Dublin City Development Plan 2016-2022 and the Apartment Guidelines (DOHPLG 2018) including provision of a sufficient mix of apartment units and security and privacy to ground floor and deck accessed units, as well as good quality communal open space with disabled access.
- Consultation with the Housing and Planning officers of DCC prior to lodging this application was favourable and the scheme will probably be bought and managed by DCC once built.

6.2. Planning Authority Response

- 6.2.1. The planning authority did not respond to the grounds of appeal.

6.3. Observations

- 6.3.1. Two observations were received in response to the appeal and are in opposition to the proposed development. 1. Mount Dillon Neighbours Group C/O Keith Dowling

and 2. Seán Haughey TD. The issues raised within the observations included the following:

- The application would benefit from further detail and supportive material as to how it aligns and compliments the residential amenities of the area in particular how it pertains to the adjacent Mount Dillon Court Senior Citizens Accommodation.
- The residents of no.'s 1-6 Brookville Park commissioned a survey of their drainage and sewage infrastructure in January 2018. This concluded that a private shared drain runs along the rear of these properties and crosses the laneway which connects to Mount Dillon Business Park until it enters a manhole close to the southern boundary of the laneway. In addition, it was noted that surface water from the commercial yard also runs to this same manhole. From there a further section of private shared drain then proceeds south-easterly to join the public sewer. The observers request that their common law easement and right to discharge for these 6 houses is not obstructed and taken into account in any planning conditions.
- A number of houses on Brookville Park have been flooded in recent years, with flood water appearing to emanate from the drain in the lane at the back of Ardbeg Park which gets overloaded due to extreme rainfall. DCC are aware of these flood events which also affect the proposed site. A comprehensive site survey is required to assess infrastructure on site and the risk of flooding.
- Concerns regarding the boundary wall along the northern, eastern and western boundary of the site which are integrated into the commercial units proposed for demolition and therefore consideration of impacts on structural integrity is required. No details of material or dimensions of proposed walls.
- Significant issues of overlooking for all the residents of properties that bound the site. Opaque screening to a height of 1.8m should be provided on the side balcony edges of all apartments, it is currently not provided on all. In addition, screening should be provided to all balconies facing south and north to prevent unacceptable levels of overlooking.

- The proposed 3 storey block which is at a higher density to that of adjoining development is overbearing and not in keeping with the housing stock in the area or character of the area. The development should be reduced to two storeys in height.
- The design of the apartments is of poor quality and substandard and if permitted would set a bad precedent for this type of development in the area.
- An examination of how emergency vehicles access the site and access the area to the rear of the proposed apartment block need to be carried out.
- Additionally, the properties to the north will be impacted by daylight and sunlight issues throughout the year. A shadow cast analysis should be provided by the applicant.
- Issues in relation to rights of way and legal interest for the new proposed gated access to Mount Dillon Court need to be clarified.
- No visible provision of footpaths or consideration of pedestrian safety. In addition the applicant has not outlined how the narrow existing laneway entrance will operate as this is not wide enough to allow two vehicles to pass. Will carparking areas, access and public lighting be taken in charge by DCC?
- Insufficient access provided to the rear of the apartment block, a width of 880mm is not sufficient.
- Provision of infrastructure to the site including electricity/gas/telecommunications/public lighting has not been detailed. Public lighting may lead to disturbance of adjoining residents.
- More details on the proposed dimensions and mounting angles of the proposed solar panels is required.
- Insufficient refuse facilities.
- Lack of detail in relation to external finishes.
- Discrepancies noted in original drawings in relation to the layout of the proposed second floor, with Kitchen/Dining/Living rooms located to rear (north).

7.0 Assessment

7.1. The Board should note that as part of the appeal the applicant has submitted a revised proposal which now sees the amount of units proposed on site reduced from 13 no. one bedroom apartments to 12 no. apartments comprised of 11 no. one bedroom apartments and a 1 no. two bed roomed apartment. A previous permission was granted on the site in 2018 to the same applicant as that under the current appeal, for 5 no. residential units under ABP Ref. 300574-18.

7.2. Having examined the application details and all other documentation on file, including the third party submissions received, inspection of the site and having regard to relevant local/regional/national policies and guidance, I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and submissions received on appeal, relate to the following:

- Zoning, Density and Building Height
- Impact on Residential Amenities
- Development Standards
- Access, Carparking, Bicycle Parking and Refuse Storage
- Flooding
- Other Matters
- Appropriate Assessment

7.3. Zoning, Density and Building Heights

7.3.1. The appeal site measures 0.1432ha in area and has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022, with a stated objective '*to protect, provide and improve residential amenities*', where residential uses are a permissible use. Accordingly, the provision of 12 no. residential units on site (as amended under appeal from the 13 no. units previously proposed) accords with the land-use zoning. The applicant effectively seeks to increase the density on site to increase the number of units from that previously granted under ABP Ref: 300574-18 from 5 no. dwelling units to 12 no. apartments units.

- 7.3.2. The immediate area is dominated by low-rise housing, with accommodation to the south for senior citizens at Mount Dillon Court in the form of smaller apartment units, within two storey buildings. The Development Plan sets out that the maximum building height allowable in this area would be 16 metres. The current development with a proposed three storey height of 8.610 metres falls well below the maximum allowed. In addition, I note that given the flat roofed nature of the proposal the roof level of the proposed building will in fact be at a lower height than that of the surrounding residential dwellings (see Long South Elevation drawing no. 1120-PP-A-06).
- 7.3.3. Having regard to the appeal site's location within close proximity to the Malahide Road, which provides a quality bus corridor to the city centre, as well as the close proximity of the site to neighbourhood services and retail, I would consider the increase in density on site generally acceptable at this location, subject to an assessment of the impact of the proposed development on adjoining residential amenities and other considerations.

7.4. Impact on Residential Amenity

- 7.4.1. The appeal site is located in a backland location, surrounded on all sides by existing residential development, mainly comprised of two storey semi-detached or terraced dwellings. Section 16.10.8 of the Dublin City Development Plan 2016-2022 notes that backland development can cause a significant loss of amenity to existing properties via for example loss of privacy, overlooking, noise disturbance and loss of mature vegetation or landscape screening. The planning authority's first reason for refusal related to overlooking and the overbearing and obtrusive appearance of the 3-storey development, within such close proximity to the boundaries of neighbouring dwellings. The applicant in their appeal argues that the development is modest in scale, and that with the setbacks proposed as part of the amendments presented under appeal, this will make it even more so and thus address the planning authority's concerns. An examination of these issues is carried out in the sections that follow.

Design

- 7.4.2. The applicant has submitted a revised design proposal as part of the appeal. Revised elevations are shown on drawing no. 1120-PP-A-03 which shows an

amended front and rear elevation. The shared access deck and lift core have been removed from the southern elevation and replaced by individually accessed balconies at first and second floor level. A similar amendment is proposed to the rear (northern) elevation. In addition, given that the lift shaft has been removed an additional set back is now incorporated from the western site boundary, with the ground floor, single storey apartment element now enlarged to a width of c. 5.1 metres from a previous c.3.6 metres. In addition, the stairwell and ground floor apartment access doors have now been grouped together, presenting the visual effect of two sets of four doorways positioned adjacent to each other on the front elevation. The same 'select brick external insulation' is proposed as an external finish to the building, no further detail on this brick finish is presented.

- 7.4.3. According to the national guidelines on Urban Development and Building Heights (2018), building-up urban infill sites is required to meet the needs of a growing population, however, the Guidelines also note that development should be of very high quality in terms of the architectural, urban design and public realm outcomes. In my opinion the proposed design is substandard, the four separate entrances to each individual stairwell present a poorly designed and somewhat clinical front elevation and the design is void of any type of discernible architectural features. While I acknowledge that the development is set back from the main Malahide Road thoroughfare, and is not visible from the public road given its backland location, I do not think this should allow for any reduction in the quality of design required for the apartment complex. As per the relevant Guidelines for Sustainable Residential Development (2009) and Policies SC13, QH7 and QH8 of the Development Plan, the acceptability or otherwise of the proposed development requires the proposal to respect and integrate with the surrounding character, as well as consideration of the cumulative impact of the proposal in conjunction with other development in the immediate area. In addition, it is important that due consideration for the protection of surrounding residents, households and communities is also taken into account. I note the observers concerns in relation to the design of the building and its overbearing and obtrusive appearance, and I would agree with the planning authority that it may be more appropriate to consider alternative positioning and layouts for the apartment block, which may in turn allow a better relationship with communal open space and also the surrounding residential environment. The careful selection of

finishes and materials may also allow for improvements to what currently appears as an overbearing flat roofed structure, thus enabling the structure to be incorporated more graciously into its surroundings. In my opinion a significant redesign of the apartment complex would be necessary to address the above issues. A further examination of other design features that may impact on the residential amenities of surrounding properties is carried out in the sections below.

Overlooking

- 7.4.4. The applicant states in their appeal that screening of up to 1.8 metres in height is to be provided between each balcony and also at the eastern and western ends of those relevant balconies to address any overlooking issues. I note that as part of the drawings submitted with the initial application that this screening was clearly illustrated on drawing no. 1120-PP-A-08, the screening however was to be provided on the apartments along the northern elevation only and no screening was proposed along the southern elevation, as the shared access walkway from the proposed lift shaft was located on this side. The proposed design has now changed and according to Proposed Section drawing no. 1120-PP-A-06, the shared access walkway has now been removed and each apartment is to be accessed via an internal stairway, with four separate stairs to be provided in total for the building. As a result, each of the proposed apartments will now have their own private balcony to the front (south) and rear (north). According to same drawing, railing to a height of circa. 1 metre is to be provided around each balcony, and no indication of any 1.8 metre high opaque screening as referred to by the applicant in their appeal is provided.
- 7.4.5. The observers to the appeal raise serious concerns with the level of overlooking that may occur from all balconies and call for opaque screening to a height of 1.8 metres to be provided along not only the side (end) balconies of the development, but also along the full length of both the northern and southern balconies. While this would address issues with overlooking from the proposed apartments and protect the privacy of adjoining residential properties, this in my opinion would be detrimental to the quality of residential amenity for the future occupants of the proposed apartments on the first and second floors. Given that revised floor plans and elevations have not been submitted which show the proposed 2 metre setback in detail, it is difficult to give an exact measurement of the proposed separation distances between the

proposed second floor of the apartment complex and the surrounding residential sites. In addition the 1:500 scale given on submitted revised drawing 1120-PP-A-08 appears to be off, bearing this in mind an approximate separation distance of c. 3.0 metres is to be provided at second floor level between the south western proposed corner balcony to the front (south) of the apartment complex and the rear garden boundary with no.s 3 and 4 Brookville Park, and an approximate separation distance of c. 5.0 metres is to be provided between the second floor north eastern corner rear (north) facing balcony and that of the nearest garden which is at no. 5 Brookville Park. The rear (north) facing balconies will also provide the opportunity for overlooking of the rear gardens along Ardbeg Park, in particular to the rear of no. 106 Ardbeg Park which is located a distance of approximately 16 metres to the north of the proposed balconies. While the provision of a 1.8 metre high opaque screening to the side of the balconies may prevent overlooking of the rear gardens at no. 104 Ardbeg Park to the west and no.5 Brookville Park to the east, these screens will do little to prevent overlooking of the remainder of the adjoining rear gardens. It is worth noting that under the previous permission on site under ABP Ref. 300574-18 that significant measures were included as part of the scheme to address concerns in relation to overlooking i.e. at first floor level, to the rear, opaque glazing on windows set behind vertical larch cladding rails to limit direct views onto neighbouring gardens.

- 7.4.6. In addition, I note that as a result of the proposed amendments to the design, individual balconies are now to be provided along the front elevation of the apartment complex. While increasing the amount of private amenity space available to future apartment occupants, these unfortunately also provide an additional opportunity for overlooking from the front of the complex. Section 3.38 of the Apartment Guidelines (Dec 2020) states that '*vertical privacy screens should be provided between adjoining balconies....*', no provision of same has been included as part of the proposal. The Board should also note that the applicant only proposes to introduce a set back at second floor level and therefore the separation distances from the end balconies at first floor level are to remain the same. Drawing no. 1120-PP-A-03 illustrates the proximity of these first floor balconies to both the eastern and western site boundaries, with the height of the balconies at c. 2.8 metres, which as can be seen from the drawing is at a level just above the adjoining boundary walls.

7.4.7. Paragraph 3.35 of the Apartment Guidelines (Dec 2020) states that '*Private amenity space should be located to optimise solar orientation and designed to minimise overshadowing and overlooking*'. While I acknowledge that some overlooking of adjoining properties is to be expected in the case of new developments in urban environments and while I note that certain issues could be addressed by way of condition and the addition of vertical privacy screens, in my opinion the issues in relation to overlooking from the first and second floor balconies to both the front and rear of the proposed apartment complex cannot be simply addressed in the same way and any increase in screening to the front of the balconies to prevent overlooking would in this instance have a significant negative impact on the amenities of future residents of the scheme. I consider the impacts from overlooking on the surrounding lower density properties and their rear gardens significant and do not consider the measures presented by the applicant satisfactorily address the impacts in this case. In my opinion a significant redesign of the apartment complex would be necessary to address the above issues and therefore a refusal of the scheme is warranted in this instance.

Overshadowing, Daylight and Sunlight and Overbearing Impacts

7.4.8. Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (updated 2020) also state that PA's should have regard to these BRE or BS standards (S6.6 refers). In addition to the aforementioned guidance I also note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in buildings'), which replaced the 2008 BS in May 2019 (in the UK).

7.4.9. The proposed development is to be located on a backland site which currently accommodates single storey commercial units of approximately 3m in height. The dwelling houses in the immediate vicinity are characterised by semi-detached and

terraced dwellings on Brookville Park to the east and Ardbeg Park to the north and west, with ridge heights of same dwellings ranging from 8 to 9 metres. Mount Dillon Court to the subject site's south is comprised of two storey buildings with pitched roofs of height circa. 8 metres which provide apartment living for senior citizens. The Board should note that the previously permitted housing development on the subject site under ABP Ref. 300574-18 which comprised of 5 no. terraced dwellings was reduced in height by way of condition to 8.74m maximum ridge height, from a previous height of 9.74 metres. The current proposal under appeal largely follows the footprint of this previously permitted development. The proposed development is for a three-storey apartment block with a proposed height of 8.610 metres to parapet height which reduces to a single storey of 3.430 metres in height on the western side, and a height of c. 5.5 metres on the eastern side to a setback of 2 metres, before once again increasing to full height.

7.4.10. The observers to the appeal claim that the proposed development will impact on the availability of daylight and sunlight to the properties to the north and that a shadow cast analysis should have been provided by the applicant. No Daylight/Sunlight or Overshadowing Assessment has been submitted with the application which considers inter alia potential daylight or sunlighting provision within the proposed scheme and overshadowing from the scheme, however, the applicant did amend the proposal to include for a 2 metre setback from the eastern elevation at proposed second floor level, thus increasing the separation distance from the eastern elevation wall to the properties at no. 4, no.5, no.6 and no.7 Brookville Park to between c. 28 and 35 metres. However, I note that the ground and first floor levels will remain within 0.8 metres of the boundary with no.4 Brookville Park at their nearest point.

7.4.11. Section 16.10.1 of the Dublin City Development Plan 2016-2022 specifies that development shall be guided by the principles of *Site Layout Planning for Daylight and Sunlight, A guide to good practice (Building Research Establishment Report, 2011)*. The applicant in this case has not made it clear if the development has been guided by these principles as no daylight/sunlight analysis of the proposed development has been submitted with the application or appeal. The BRE and the BS guidance recommends that for new dwellings daylight to habitable rooms should exceed a calculated Average Daylight Factor (ADF) of 2% for a kitchen, 1.5% for a living room, 1% for a bedroom. Although no assessment of same has been

submitted with the application, I do note that all of the apartment units are dual aspect, which maximises daylight penetration to the units. Of the 12 no. apartments proposed all have windows facing within 90 degrees of due south. The kitchen living dining areas of the first and second floor units have glazed balcony doors and adjoining windows. The revised arrangement for the ground floor apartments is less clear as no updated floor plans of same have been received with the appeal. I do note that the ground and first floor have balcony overhangs above their respective fenestrations and therefore even though the apartment block is limited to only three stories these overhangs could serve to reduce daylight to the units. As such based on the information submitted with the application and appeal, I am not satisfied that the proposed units will achieve good internal daylight and sunlight levels.

7.4.12. I note that as part of the previous application on site under P.A. Ref. 2427/17 (ABP Ref. 300574-18) a shadow study was provided at further information stage, along with a reduction in height from three to two-storeys to the eastern and western ends of the terrace of dwellings. The current proposal appears to generally reflect these reduced design level elements, with a single storey element proposed along the western side of the apartment block and a proposed amended setback of 2 metres at second floor level on the eastern side. However, the proposed two storey element on the eastern side of the proposed terrace as proposed under ABP Ref. 300574-18 had a setback of 5.6 metres from the eastern elevation, and although it did incorporate a sloping roof which did increase the height of this element as one moved westwards, the design of same removed any sense of overbearing that the previously proposed full height element may have had on the adjacent properties. In the case of the current appeal, I believe the proposed 2 metre set back at second floor level does not adequately address the sense of overbearing on those properties proximate to this apartment building on the eastern side. In addition, the daylight/sunlight analysis presented under the previous permitted development on site is not directly comparable. The BRE Guidelines recommend that for a garden or amenity area to appear adequately sunlit throughout the year, at least half of it should receive at least two hours of sunlight on March 21st. The applicant has not submitted any documentation considering this issue, in the form of a shadow analysis or commentary on same in relation to adjoining residential properties and

their private amenity spaces. In particular I would have concerns in relation to possible overshadowing impacts on the rear gardens along Brookville Park.

7.4.13. In relation to the impacts on properties to the north and northwest of the site within Ardbeg Park, I note that the closest distance from an existing window (at no. 104 Ardbeg Park) to the nearest 3 storey element of the proposed apartment block is approx. 13m and from the proposed apartment block to the rear garden of no.106 Ardbeg Park is approx. 17m. Given this distance and the height of the proposed development again at 8.835m again there may be an impact on daylight or sunlight levels to these properties, and the rear gardens of these properties.

7.4.14. Therefore, in conclusion, while it may be possible to reduce the overbearing and overshadowing impacts by conditioning a further set back on the eastern side of the proposed apartment block, without an accurate daylight and sunlight analysis the impacts of the surrounding properties this cannot be assessed in detail. Having regard to the proposed development's design, mass and lack of architectural features, I would therefore consider that the proposed development would have an overbearing and obtrusive appearance when viewed from the neighbouring properties. In addition, I consider there was insufficient information submitted with the application to carry out a comprehensive daylight and sunlight analysis for the proposed apartments, in particular the amended ground floor apartment layouts. Therefore, given these reasons the current proposal should in my opinion be refused.

7.5. **Development Standards**

7.5.1. As part of the appeal documentation the applicant has stated that in view of the concerns expressed by the occupants of neighbouring properties, a 2 metre setback is now proposed at second floor level on the eastern side of the building, thus reducing the number of apartments to 12 and now providing a two bedroom apartment at second floor level on the eastern side measuring 80sq.m in area and thus improving the overall apartment mix of the development.

Unit Mix – SPPR 2

7.5.2. In response to the planning authorities concerns in relation to non-compliance with SPPR 2, the applicant states that they believe with the proposed revision to 12 units and the set back of the east side at second floor level, the development is now

compliant with the development plan and all discretions contained therein, as well as SPPR 2 as outlined in the Apartment Guidelines.

- 7.5.3. SPPR 2 is applicable to the current appeal as the subject site has an area of 0.1432ha and is therefore considered an urban infill scheme on a site of up to 0.25 ha. The applicant proposes 11 no. one bedroomed apartments and 1 no. two bedroomed apartment within the scheme. Therefore, even with the addition of the 1 no. two bedroomed apartment, the applicant would still not meet the requirements of SPPR 2. I acknowledge however that this lack of compliance with SPPR 2 is marginal in this case, as parameters of SPPR1 only apply to units 10 to 12 inclusive. I also acknowledge that the Apartment Guidelines (2020) allow a certain amount of discretion in this regard, on a case by case basis for urban infill schemes, having regard to the overall quality of the proposed development. In this case I would be in complete agreement with the planning authority, in that, given the significant number of issues with the proposal and its poor quality of design, that deviation from those standards listed in SPPR2 would not be appropriate in this instance.

Minimum Apartment Floor Areas

- 7.5.4. The Apartment Guidelines (2020) require 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%. In the case of the current proposal, the majority of the units meets the 10% floor area exceedance. The proposed two bedroom apartment at second floor level at a proposed 80sq.m is acceptable, I note however that no revised floor plans or elevations have been submitted for this apartment and therefore the access arrangements and general layout of the apartment cannot be determined, nor its compliance with individual and aggregate floor area and minimum room widths.
- 7.5.5. While the apartments meet SPPR 4 with all apartments having dual aspect, I note that revised drawing no. 1120-PP-A-06 which was submitted with the appeal, shows a reduced ground floor to ceiling height of 2.45 metres. The apartment building as originally proposed had an overall height of 8.86 metres, with the revised proposal submitted as part of the appeal showing a reduced height of 8.61 metres (see drawing no. 1120-PP-A-06). The reduction in overall height has been achieved by reducing the ground floor to ceiling height. SPPR 5 allows some discretion for urban

infill sites, stating that a general reduction in floor to ceiling heights may be considered subject to overall design quality. As stated previously, in this case I do not believe that the apartment scheme is of sufficient design quality and therefore I believe that non-compliance with SPPR 5 should not be allowed in this instance.

Stairwells, Lift, Accessibility and Storage

- 7.5.6. In addition to the issues outlined above, I also note that under the revised proposal that all apartments at first and second floor level are now to be accessed via stairways and that a lift is no longer proposed to the front (southern) elevation of the building. The applicant has given no justification for the removal of same lift and I would have serious concerns in relation to the accessibility for all of the upper floor apartments given that this lift shaft has now been removed. Part M of the Building Regulations sets out standards to ensure that buildings are accessible and usable by everyone, including children, people with disabilities and older people. The current proposal does not provide an accessible design.
- 7.5.7. In addition, the overall design of the apartment complex is questionable with four separate stairwells accessing two apartments each, or in the case of the revised scheme one of these stairways will access one apartment only. Section 4.2 of the Apartment Guidelines states that '*within apartment buildings, hallways and shared circulation areas should be appropriate in scale and should not be unduly narrow. They should be well lit, with some natural light, where possible and adequate ventilation*'. The width of the stairwells in the current proposal at 0.9m in width is a concern, as is the lack of adequate lighting to be provided, given that a window at second floor level is no longer proposed on the northern elevation on the revised plans. The entrance lobbies and circulation space within is non-existent and I feel that given the limited space involved would lead to major issues with regard to furniture deliveries and therefore is not in accordance with the standards envisaged under Section 16.10.1 of the development plan.
- 7.5.8. I also note that the planning authority raised concerns in relation to the amount of storage proposed within each apartment. A minimum storage space requirement of 3sqm is required for each one-bedroom apartment and 5sqm is required for the proposed two-bedroom apartment. The presented plans show no dedicated storage space in any of the proposed apartment, apart from wardrobe space in each

bedroom. In addition, given the lack of detailed plans for the proposed two-bedroom apartment, it is not possible to assess this for adequate storage space. I also note that no additional storage is proposed outside of the individual units.

Private amenity open space

- 7.5.9. The proposed first and second floor apartments have balconies of sufficient width at 1.5m provided both to the front (south) and rear (north) of each apartment, and are 6.2sqm each in area, thus complying with the minimum standards required under the Apartment Guidelines. There appears to be an error on the proposed rear elevation drawing no. 1120-PP-A-03 which indicates that the rear balconies are 1 metre in depth and not 1.5 metres, the submitted proposed second floor plan (drawing no. 1120-PP-A-03) however confirms the 1.5 metre width.
- 7.5.10. The ground floor apartments front directly onto the footpath and car parking area to the south of the building. Section 3.41 of the Apartment Guidelines states that *'where ground floor apartments are to be located adjoining the back of a public footpath or some other public area, consideration should be given to the provision of a 'privacy strip' of approximately 1.5m in depth'*. This same issue was raised by the area planner in their report and yet the revised plans submitted with the appeal still make no allowance for any privacy strip. I would therefore have concerns in relation to the security and privacy of these ground floor apartments, in particular, as four separate entrances/access to stairwells, which provide access to the upper floor apartments, are also provided for within the same area, thus attracting a greater footfall outside of these apartments.
- 7.5.11. The revised Block Plan (drawing no. 1120-PP-A-08) submitted with the appeal shows an amended arrangement for private open space for the ground floor apartments. Previously these ground floor apartments had an area ranging between 25.3sqm to 30.4sqm of private open space to the rear of the apartment block. The remainder of the area was then dedicated to communal open space. The revised proposal shows that these ground floor apartments will now have access to an extended area of private amenity space (unstated area), which will stretch the full length of the rear open space area to the north of the apartment block. According to Proposed Section A-A of drawing no.1120-PP-A-06, these areas of private amenity space appear to be accessed directly from the master bedrooms at ground floor

level, this design approach seems neither appropriate nor practical for future occupants. In addition, I note that Section 3.35 of the Apartment Guidelines (Dec 2020) states that where provided at ground level, private amenity space shall incorporate boundary treatment appropriate to ensure privacy and security. No details of same have been provided with the appeal, and I note that the private amenity space for the eastern most ground floor apartment appears to be openly accessible via a narrow gap between the eastern boundary wall and the apartment building (see drawing no. 1120-PP-A-08) thus raising additional security concerns.

Communal Open Space

- 7.5.12. Given that the open space to the rear of the apartment block is now proposed for use as private amenity areas for the ground floor apartment, there is to be no communal open space provided as part of the development. While I note that Section 4.12 of the Apartment Guidelines allows for the relaxation in part or whole, for communal amenity space for urban infill schemes on sites of up to 0.25ha, again this is subject to the overall design quality of these schemes. As stated previously, in this case I do not believe that the apartment scheme is of a sufficient design quality to allow for deviation from this measure.

Public Open Space

- 7.5.13. The subject development does not propose to provide any public open space as part of the scheme. Section 16.3.4 of the development plan states that there is a 10% requirement specifically for all residential schemes as set out in Section 16.10.1. However, in the event that the site is considered by the planning authority to be too small or inappropriate (because of site shape or general layout) to fulfil useful purpose in this regard, then a financial contribution towards provision of a new park in the area, improvements to an existing park and/or enhancement of amenities shall be required (having regard to the City's Parks Strategy). In the event that planning permission is granted for the proposed scheme, given the limit nature of the site, I would consider it appropriate that a financial contribution in lieu of the provision of public open space should apply in this case.

Operation and Management of Apartment Developments

- 7.5.14. Section 16.10.1 of the development plan states that applications for apartment developments should include an assessment of long term running and maintenance

costs, as well as demonstrating what measures have been specifically considered to reduce costs for the benefits of residents. Sections 6.11 to 6.14 of the Apartment Guidelines (Dec 2020) reiterates the importance of the consideration of these matters as part of any assessment of a proposed apartment development. The applicant has stated in their appeal that details regarding management, maintenance or operation of the development as required under the above sections will be furnished by way of condition prior to construction/occupation. While I acknowledge that the greater details of these operation and management plans may be agreed by way of condition, the lack of any detail submitted on the management or operation of the apartments, including a building lifecycle report at application/appeal stage in my opinion is not acceptable. There would appear to be reference made by the applicant in their appeal to the possibility of DCC purchasing or leasing the proposed units, however I again note that no details of any correspondence from DCC in this regard have been submitted.

7.6. Access, Carparking, Bicycle Parking and Refuse Storage

- 7.6.1. Section 16.10.10 of the development plan states that infill housing should '*have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard*'. I note that serious concerns were raised by the Transportation Planning Division of Dublin City Council with regard to both access to the site and also the provision of both car parking and cycle parking on site. In addition, the lack of provision for pedestrians was also raised as a significant issue, in particular along the access laneway from Brookville Park. The appeal states that the proposed development will have a fraction of the traffic associated with the busy commercial business currently operating and that in addition the new additional access will further enhance access.

Cycle Parking and Storage

- 7.6.2. The revised Block Plan (Drawing No. 1120-PP-A-08) submitted as part of the appeal documentation indicates no cycle parking provision or provision for pedestrian access via either the existing laneway access off Brookville Park or via the proposed new vehicular access off Mount Dillon Court. The lack of provision of both was raised at application stage by the planning authority and the applicant in their appeal has stated that additional communal storage for bicycles and gardening equipment may

be constructed in the form of a communal shed structure as part of the shared open space. I note the contradictions in the appeal statement in this regard, firstly the revised proposal no longer contains communal open space to the rear of the apartment block and secondly I do not consider it adequate to merely state that a communal shed 'may' be provided. The submitted revised block plans contains no details of same and therefore I am not satisfied that the applicant has met the cycle parking standards outlined in Table 16.2 of the development plan which requires a minimum of one space per unit is provided or the requirements listed under Section 4.17 of the Apartment Guidelines (Dec 2020) which require the provision of suitably designed bicycle parking and storage on site.

Carparking

- 7.6.3. As part of the revised proposal submitted with the appeal documentation, the applicant now proposes to reduce the amount of carparking provided on site from 13 no. parking spaces to 10 no. parking spaces, all of which are to be located along the southern (front) side of the proposed apartment building. Table 16.1 of the development plan requires that for Zone 3 areas, within which the current appeal site is located, that a maximum of 1.5 spaces per residential unit is provided. Given the proximity of the proposed development to a quality bus corridor along the Malahide Road which provides regular services to the city centre, I would consider that a reduction in car parking in this instance for the 12 no. proposed apartments is acceptable.

Refuse Storage

- 7.6.4. Those previously proposed 2 no. car spaces along the south western boundary of the site, and also the 1 no. space along the eastern boundary have been removed, as has the bins/refuse areas which was previously located along the southwestern boundary also. While their removal provides for a greater and improved circulation space for traffic, I note that no alternative refuse storage location has been proposed on the revised plans. Again there appears to be a contradiction between what has been presented under the revised plans submitted with the appeal and the appeal statement where the applicant states that it is considered that the current positioning of the bin area is adequate and screening will be provided as per standard conditions. No refuse storage area has been indicated on revised block plan

(Drawing no. 1120-PP-A-08). Section 4.8 and 4.9 of the Apartment Guidelines (Dec 2020) are specific on the requirements for refuse storage in apartment schemes. The applicant states in their appeal that all service details including refuse will be dealt with as part of the working drawings stage in conjunction with the various utilities. In my opinion the lack of consideration for these facilities within the scheme is a concern and while the provision of these facilities could be conditioned by the Board on any grant of permission, given the other concerns highlighted in my report and the lack of compliance with both development plan standards and the Apartment Guidelines, in my opinion this development should be refused.

Vehicular and Pedestrian Access

- 7.6.5. The observers on the appeal raise concerns regarding the new access from Mount Dillon Court, which is a DCC housing complex, and the removal of the southern boundary wall and existing planting in the area. The applicant in their appeal has stated that Dublin City Council have agreed to the proposed new access from this housing complex and that they have full legal interest/consent to remove the planted area to the south of the boundary in order to provide this new vehicular access to the subject site. The applicant has stated that they have met with the Roads Department of DCC and that they are satisfied that their standards can be complied with in full. While I acknowledge that there may be an agreement in place with DCC for this proposed new entrance, no details of same have been submitted with the appeal. Any arrangement should be subject to agreement with the planning authority and I would suggest to the Board that a condition requiring same is attached to any grant of permission.
- 7.6.6. In addition, I would have reservations regarding the proposal as illustrated on the submitted revised block plan (drawing no. 1120-PP-A-08), which includes for inward opening gates on the southern boundary at the entrance with Mount Dillon Court, as in my opinion these would have significant potential to restrict the freeflow of traffic from the proposed site. I also note that Policy QH10 of the development plan looks to discourage gated-residential development and I would recommend that if the Board are minded to grant permission that the gates are omitted via condition. In addition, the applicant has not presented any details as to how pedestrians will be accommodated at this entrance. Given that an existing footpath exists in Mount Dillon Court to the south of this proposed new entrance, in order to ensure continuity

of pedestrian linkages a condition should be attached to any grant of permission to ensure this new entrance includes for suitable footpath access and connection to existing pedestrian provisions in the immediate area.

- 7.6.7. I also have concerns in relation to how the existing access off Brookville Park is to be managed. Section 16.9 of the Plan requires roads and services in housing developments to adhere to the Design Manual for Urban Roads and Streets (DMURS). I note that this Manual does not provide guidance relevant to the retrofitting of existing streets, which would be required in the current case. The existing laneway ranges in width from 3.4 metres to 5.1 metres and is not of a sufficient width to allow for two cars to pass each other. The applicant was requested by the TPD of DCC to submit details as to how this access would be managed safety, i.e. by means of signage, road lining or passing bays within the application site, however no details have been submitted as part of the appeal. I have concerns that without proper management, the restricted access on this existing laneway may lead to a situation where incoming vehicles may have to reverse back onto Brookville Park to allow outgoing vehicles exit the site. In my view this existing access laneway should be limited to one-way traffic movement for incoming vehicles entering the subject site. If the Board are minded to grant permission this requirement could be dealt with by way of condition. While I note that observers to the appeal have highlighted that a pedestrian footpath or cycle path would not be provided along the access laneway, I am satisfied that based on the terms of DMURS, the restricted use of the lane for the subject development and that given the restricted traffic speeds that would be available along the laneway, significant pedestrian or cyclist safety concerns would not arise.

7.7. **Flooding**

- 7.7.1. I note that the observers to the appeal raise major concerns regarding the potential for flooding in the area and reference to past flooding events. As part of the information submitted with the observations, Ardbeg Road, Artane is listed as one of the locations where previous road flooding occurred due to an extreme pluvial flooding event on 24th October 2011. Correspondence submitted from DCC confirms this flood event. 3rd party observations received on the appeal state that parts of the subject appeal site are also believed to have been impacted by same flooding event. The most recent recorded flooding event in the area occurred on 13th November

2014 and again related to extreme weather conditions and pluvial flooding and issues with surface water drainage infrastructure in the area.

7.7.2. Having examined the OPW website (www.floodinfo.ie) I can find no evidence of past flood events in the immediate area of the site and note that the subject site is not located within flood zone A or B which would be susceptible to either fluvial or coastal flooding. Notwithstanding the availability of flood zone maps, the applicant is primarily responsible in the first instance for assessing whether there is a flood risk issue and how it will be addressed in the development they propose. In addition, given that pluvial flooding has been recorded in the area I believe that further investigation is merited. While I note that the applicant makes reference to previous consultations with DCC on planning application P.A. Ref. 2427/17 and the submission of a Flood Risk Assessment (FRA) for that particular development, none has been submitted for the current proposal. I also note having examined this previous application's FRA, that surface water run-off was identified as a risk within the proposed site and also stood to increase the risk of flooding to adjacent properties and/or properties downpipe/downstream on the receiving public surface water sewers and/or watercourses. The risk to the proposed development and adjacent properties at that time was as a result of a drainage system which was of insufficient capacity to accommodate the design storm rainfall event. In order to address these issues attenuation measures were proposed on site to limit the rate of surface water outfall from the site to 2.0 litres per second. While this may have addressed issues in relation to this previously permitted development on site, I have serious concerns in relation to the current proposal, in particular as there appears to be inconsistencies in the submitted drawings.

7.7.3. The Board should note that as part of the revised drawings submitted with the appeal, that the layout for the area to the rear (north) of the proposed apartment block has been amended. It would now appear, in accordance with drawing no.1120-PP-A-08 titled Block Plan, that the ground floor apartments shall have access to enlarged rear gardens and that no communal open space is to be provided. In addition, no details of any rainwater tank or soakaway have been provided. The previously proposed Block Plan layout illustrated on Drawing no.1120-PP-A-11 submitted as part of the planning application, details these drainage arrangements and surface water attenuation areas. I note that these previously proposed

arrangements were not considered adequate by the planning authority and additional information on a number of points was requested, however the subject application was subsequently refused by the planning authority so these requests were never issued. In my opinion the applicant has not satisfactorily addressed any of those concerns in his appeal, instead he merely states that '*the scheme structural/civil engineers have been liaising with DCC drainage department and all of their requirements will be fully met, although the site is on higher ground and has no drainage/flooding issues*'. Regarding the levels on site, I would draw the Boards attention to drawing no. 1120-PP-A-06 Proposed Long Elevations and Section A-A which was submitted as part of the appeal documentation. This drawing clearly shows that the subject site levels are to be dropped by 700mm below the adjoining sites levels. The scale of 1:200 appears to be inconsistent, however the measurements presented on the drawings nonetheless give an indication of the proposed plans for the site. The applicant clearly states in the appeal that the site is at higher ground level, which is clearly not the case, therefore adding to the risk of both drainage and flood risk issues on site. The appeal states that an appropriate Site-Specific Flood Risk Assessment (SSFRA), in accordance with the November 2009 OPW Guidelines, shall be carried out for the proposed development, however none has been submitted with the appeal. Therefore, in my opinion, given the serious lack of detail with regard to drainage arrangements on site (including attenuation and surface water management), the lack of detail regarding sufficient flood risk assessment, the fact that previous pluvial flooding is noted in the area and that the proposed ground floor levels on site are circa. 700mm below that of the adjoining sites, I would have significant concerns in relation to flood risk on the site. In addition given the known history of issues in relation to storm water management in the area, I am not satisfied that the proposed development would not give rise to an increased risk of flooding on the site or to other properties in the vicinity. The proposed development would therefore be prejudicial to public health and safety and should be refused on this basis.

7.8. Other Matters

Boundary Walls

- 7.8.1. Concerns relating to the structural integrity of existing boundary walls have been raised by observers to the appeal. I note that the existing units on site are built up to

these boundaries and therefore the demolition of same may impact on shared boundaries with the adjoining properties to the west and north at Ardbeg Park and to the east along the rear gardens of no.6 and no.7 Brookville Park. Limited details regarding landscaping and boundary treatment have been provided by the applicant. I note as part of the appeal documentation that drawing no.1120-PP-A-03 shows a 2-metre-high boundary wall (measured from the adjoining sites) to both the eastern and western boundaries adjacent to the proposed apartment block. A 2-metre rear boundary wall is also shown on drawing no.1120-PP-A-06. The applicant has stated in their appeal that all boundary treatments will be agreed with DCC and will be of sufficient height to ensure a high quality of residential amenity for existing dwellings and for occupants of the new apartment development. The applicant also states that the scheme structural/civil engineers have been liaising with DCC drainage department and all of their requirements will be met in full including design details to be in compliance with Part A of the Building Regulations for the boundary wall concerns raised by the 3rd parties. While I note that no detailed proposals for the site's boundary walls have been submitted with the appeal, I am satisfied that the details of same can be agreed by way of condition, including details of dimensions and materials and that the developer will be required to meet the requirements of the planning authority in this regard.

Solar Panel Details

7.8.2. The observations received on the appeal have highlighted concerns in relation to the solar panels which are proposed at second floor roof level. The observers query the dimensions and mounting angle of the panels and the potential for same to be seen over the parapet wall. Drawing no. 1120-PP-A-06 which was submitted with the appeal shows proposed Section A-A with the panels illustrated below the parapet level. I consider the location of the proposed panels appropriate and would suggest to the Board that in the event of a grant of permission that a condition is included to ensure that the panels do not exceed the parapet level.

7.9. Appropriate Assessment

7.9.1. Having regard to the nature of the development on a serviced infill site in an urban area, and the separation distance to any European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely

to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

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

9.0 Reasons and Considerations

1. The proposed development, by reason of its design and layout, including insufficient privacy and security for apartment units, insufficient provision of bicycle parking and storage, and general storage for apartment units, lack of clarity on future operation and management and insufficient arrangements in relation to accessibility for all, would fail to establish a satisfactory standard of amenity for future occupants and would not deliver a quality apartment development in line with Section 16.10.1 and Policy SC13 of the Dublin City Development Plan 2016-2022 or the relevant provisions of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DOHPLG, 2020). In addition, it is considered that there has been insufficient information submitted to allow for a daylight and sunlight analysis to be carried out for the proposed apartments and for the potential impact of the proposed development on adjoining residential properties to be assessed. The proposed development would constitute inappropriate backland development which would seriously injure the residential amenities of property in the vicinity by reason of overlooking, and given its proximity to properties to the east and west would have an overbearing and obtrusive appearance when viewed from neighbouring dwellings. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site, in an area which has been subject to previous flooding, and on the basis of the submissions made in connection with the planning application and appeal, the Board is not satisfied that the proposed development would not give rise to an increased risk of flooding on

the site or of property in the vicinity. It is considered that, in the absence of adequate information relating to drainage on site, the risk of flooding, analysis of such risk, and appropriate mitigating measures to address any risk, the proposed development would, be prejudicial to public health and safety and contrary to the proper planning and sustainable development of the area.

Máire Daly
Planning Inspector

23rd June 2021