



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309341-21

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<b>Development</b>	Demolition of warehouse and construction of 3 to 7 storey mixed development to include Mosque and 27 residential apartments
<b>Location</b>	25-26, Blackpitts, Dublin 8
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	2654/20
<b>Applicant(s)</b>	Independent Clothing Holdings Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Gráinne Noone John Fisher
<b>Observer(s)</b>	Cllr Mannix Flynn Blackpitts Residents Association Brigid and Paul Cunningham Henrietta Cahill

Patrick Coyne  
Reg Hayes  
Cllr Tina McVeigh and Brid Smith TD  
The Board of Directors of the  
Warehouse  
Anne Hackett

**Date of Site Inspection**

30<sup>th</sup> of April 2021

**Inspector**

Adrian Ormsby

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## 1.0 Site Location and Description

- 1.1. The site is c. 2 km south west of Dublin City Centre on a parcel of land with an address at 25-26, Blackpitts, Dublin 8. Blackpitts is the road fronting the site that runs generally from north to south and is west of and parallel to Clanbrassil Street Lower.
- 1.2. The northern boundary of the site adjoins an access road to the grounds of the Presentation Primary School, Warrenmount. I note the Dublin City Development Plan places Presentation Convent (original Warrenmount House and other buildings) onto its Record of Protected Structures under reference number 8222. This is c. 80m north of the application site.
- 1.3. The southern boundary of the site adjoins a two storey house No. 24 Blackpitts. The rear of the site bounds the end of a cul de sac to Saint Michaels Terrace with a number of two storey terraced houses. The front of the site adjoins the public path to Blackpitts and is located opposite a four storey residential building known as Liberty Court Apartments. A five storey apartment development known as the warehouse is located across the road and to the North East.
- 1.4. The application site has a stated area of 1,002 sq.m ha and includes an existing two storey warehouse style building surrounded by high boundary painted and dashed wall which fronts the public path along Blackpitts. The building is has a standard pitch style roof with a corrugated finish. There is an entrance through the wall towards the southern side of the site, a vehicular entrance and gate located more centrally and a pedestrian style entrance closer to the northern boundary.
- 1.5. The nature of the site current use as a mosque is not clear upon inspecting the site. Overall the building is visibly in need of redevelopment and the site does not present well to the public space.

## 2.0 Proposed Development

- 2.1. The proposed development comprises of
  - demolition of the existing warehouse type structure used as a religious, cultural and community building;

- a part 3 to part 7 storey over basement level building (26.23m high)
- A Mosque located at ground floor and mezzanine level;
- 27 apartments consisting of-
  - 6 no. 1-bed units
  - 20 no. 2-bed units;
  - 1 no. 3 bed unit.

2.2. On the 20/07/20 the Planning Authority sought Additional Information where they raised concerns over

- The overall height and transition in scale of the proposed building and adjacent two storey housing
- Discrepancies in the drawings and overlooking of property to the south

2.3. On the 27/11/20 the applicants responded to the (FI) request and submitted revised proposals. The application now comprises of-

- a part 2 to part 6 storey over basement level building (23.16m high)
- 20 apartments consisting of-
  - 5 no. 1-bed units
  - 12 no. 2-bed units;
  - 3 no. 3 bed units.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority decided to grant permission on the 08/01/21 subject to 19 conditions generally of a standard nature and including-

- C5 which requires the following amendments:
  - All walls surrounding terraces and privacy screens on the shall have a minimum height of 1.8 metres.
- C10 which requires

- Balustrading to balconies should be safe for children. Privacy screens should be provided between adjoining balconies and the floors or balconies should be solid and self-draining
- C12 required a number of matters including most notably-
  - b) Prior to commencement of the development, the applicant/developer shall submit revised drawings outlining measures including landscaping, bollards etc. to discourage car parking to the front of the proposed development to the planning authority for written agreement. The location of the visitor cycle parking stands to the front of the development shall be reviewed.
  - c) 49 no. resident cycle parking spaces and 16 no. cycle spaces provided for exclusive use of the mosque shall be provided which shall be secure, conveniently located, sheltered and well lit. Key/fob access should be required to both resident and mosque bicycle compounds. A minimum of 8 no. visitor cycle spaces shall be provided. Resident, Mosque and visitor cycle parking design shall allow both wheel and frame to be locked.
  - d) Prior to occupation of the development, a Mobility Management Plan and Residential Travel Plan, shall be submitted for the written agreement of the Planning Authority. This plan shall address the mobility requirements of visitors to the mosque and the residents and detail how it intends to discourage car ownership and promote the use of public transport, cycling and walking. The plan shall also, provide details of all public transport options and identify car club spaces, bike share and any other transport schemes outside of the development and in the vicinity of the site. Measures to monitor and actively manage car parking shall be include. A Mobility Manager for the overall scheme shall be appointed to oversee and co-ordinate the preparation of individual plans.
  - e) A review of the Mobility Management Plan, including travel habit surveys and modal split, shall be carried out within 12 months of the occupation of the proposed development and submitted to the Planning

Authority for review. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

- C14 which detail Archaeological requirements including-
  - b) The project shall have an archaeological assessment (and impact assessment) carried out for this site as soon as possible and before any site clearance/construction work commences.
  - g) The developer shall comply in full with any further archaeological requirement, including archaeological monitoring, and if necessary archaeological excavation and/or the preservation in situ of archaeological remains, which may negate the facilitation of all, or part of any basement.
  - i) Before any site works commence the developer shall agree the foundation layout with the Planning Authority.

## **4.0 Planning Authority Reports**

### **4.1. Planning Reports**

The report of Dublin City Council's (DCC) Planning Officer (dated 08/01/21) reflects the decision of the Planning Authority. The following is noted from the report-

- Mosque is an established use on the site. Under the Z15 land use zoning objective a 'place of worship' is a permissible use and 'residential' is open for consideration.
- The applicant states the accommodation proposed over the mosque will be let and managed through the mosque management.
- The applicant states that the limited site area would also indicate that the provision of on-site public open space would not be justified. The applicant states they will consider a development contribution in lieu of public open space.

- the plot ratio and site coverage exceed the indicative plot ratio and site coverage standards as outlined in the Plan. However, the existing site coverage on the site is 100% and the site is located within an area which is undergoing a process of urban renewal. The plot ratio and site coverage proposed may be considered acceptable subject to the proposal meeting with other development management standards such as daylight and sunlight both within and adjoining the proposed development.
- The proposed development ranges in height from 3 storey to 7 storeys with a maximum stated height of 26.2 metres, which exceed the general height limit of 24 metres that applies for developments in the 'inner city' as defined in the Development Plan.
- The highest point of the building is at the centre of the site, which is away from the shared site boundaries of surrounding development.
- It is considered that the proposal makes a positive contribution to the streetscape by providing a mixed-use development with a double height mosque at ground floor level.
- Given the overall width of the street at the location of the development, in terms of urban design it is considered that the site can accommodate increased height in order to create a sense of enclosure on the street, however there are concerns regarding the impact of the height of the proposal and the transition in scale from the adjoining 2 storey houses.
- In terms of overlooking the 'Overlooking Report' indicates that no overlooking can take place into adjacent properties as a result of the 1.65 metre high walls and a perforated steel screen used on the rear façade of the proposal.
- It is considered that the screen walls will effectively mitigate any overlooking of adjoining sites by restricting downward views.
- There are concerns that the windows on the south elevation may have a negative impact on the development potential of the adjoining site and may cause undue overlooking of adjacent property.
- The Daylight-Sunlight and Overshadowing Report indicates that additional overshadowing is cast over the north facing gardens of No's 4 and 5 St.

Michaels Terrace in the morning. The Report indicates that the playground of Warrenmount School is overshadowed by 10% due to the proposed development. Overall it is considered that the proposal is in accordance with the requirements of 'Site Layout Planning for Daylight and Sunlight' (2nd edition) in terms of overshadowing.

- The Daylight-Sunlight and Overshadowing Report does not include an assessment of Daylight-Sunlight. However the Design Statement submitted in conjunction with the application indicates that the usable living space of a typical apartment on the lower floor of the development has an ADF of 3.75% which exceeds the recommended minimum ADF value of 1.5% for living rooms.
- The operational hours and numbers of people attending the Mosque are as per the original permission for the existing mosque on the site. The proposal is not an intensification of the existing use on the site in terms of operation or numbers attending.
- The proposal uses highly modelled brick detailing with golden balconies that have a cut decoration which front onto Blackpitts and provide passive surveillance of the street. To the rear the screening employed to mitigate overlooking has a triangular pattern which adds visual interest to the rear.
- The proposal successfully references the architectural language of Victorian Dublin architecture, which also has roots in India and Pakistan, as well as the detail, decoration and ornamentation of Islamic architecture. Overall in terms of concept, use of materials, attention to detail and the articulation of the façades it is considered that the proposed building provides visual interest which will have a positive impact on the character of the area by providing a cultural landmark which adds to the sense of place.
- It is considered that the mix and floor areas comply with Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, DoHPLG, December 2018. All other requirements appear to be met including the provision of 180 sq.m of communal amenity space in the form of 4 roof gardens.

- The proposed exceeds cycle parking standards of the Development Plan.
- Following the submission of Additional Information it is considered that the concerns raised in relation to height and transition in scale have been addressed. The reduction in height has been achieved by removing the lower 9 no. bay wide floor. The revised proposal has an overall height of 23.16 metres. It is considered that the revised proposal provides an appropriate transition in scale between the proposed building and the adjacent two storey houses.
- The revision also results in a redesign of the interior circulation, private and communal terraces and a reduction in units to 20 no. units for the original 27 no. units.
- It is considered that the revised proposal accords with Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, DoHPLG, December 2018.
- The quantity of resident and visitor cycling has changed, but is in accordance with the apartment guidelines.
- Proposed windows have been omitted from the south facing elevation.
- To prevent overlooking of adjacent properties 1.65m high brick walls surround all terraces. It is considered that the walls surrounding terraces and privacy screens should be increased to a height of 1.8 metres by way of condition.

#### 4.2. Other Technical Reports

- Transportation Division- no objection subject to conditions including-
  - a Construction Management Plan shall be submitted
  - revised drawings outlining measures including landscaping, bollards etc. to discourage car parking to the front of the proposed development
  - the location of the visitor cycle parking stands to the front of the development shall be reviewed to accommodate improved pedestrian movement.

- a Mobility Management Plan and Residential Travel Plan, shall be submitted
- A review of the Mobility Management Plan shall be carried out within 12 months of the occupation of the proposed development and submitted to the Planning Authority for review.
- Resident cycle parking shall be secure, conveniently located, sheltered and well lit. Key/fob access should be required to bicycle compounds. Resident and visitor cycle parking design shall allow both wheel and frame to be locked.
- Drainage Division- no objection subject to conditions.
- City Archaeologist- no objection subject to conditions

#### 4.3. **Prescribed Bodies**

- TII- Apply a section 49 Contribution scheme Levy if applicable.

#### 4.4. **Third Party Observations**

53 individual third party submissions were received and are on file. Two submissions appear to be duplications and likely accepted by post and online (Warrenmount Primary School and Paul Harris). I note the Planners Report refers to 56 submissions but having reviewed the file against DCC's online portal I am satisfied I have reviewed all the submissions. The main issues raised can be summarised as follows-

- Traffic Congestion, Management and Parking related issues
- Design related matters including height, scale, visual amenity, character of the area, incongruous
- Overdevelopment of site including plot ratio, site coverage, density
- Impacts on Residential Amenity- including overlooking, overshadowing, overbearing, noise and devaluation of property.
- Construction and Demolition related matters

- Operational matters including hours of use and deliveries
- Non-compliance with Zoning
- Impact on existing services including water and sewage
- Lack of community facilities
- Imposition of fire exit to St. Michael's Terrace
- Impacts on Structural Integrity of area including works to provide basement area
- Nature of proposed use

## 5.0 Planning History

This Site-

- 2033/11- Retention of a change of use from warehousing to religious, cultural and community use of part first floor and part ground floor levels and a change of use from warehousing to religious, cultural and community use of the remainder of the site. **Grant** 27-May-2011
  - Condition 2 states-
    - The hours of opening shall be between 7.00 and 20.30 hrs from Monday to Sunday, and shall not be outside these hours without the prior grant of a separate planning permission.  
  
Reason: To protect the amenities of adjoining residential occupiers.
- 2725/08- Change of use of part of ground to become a community food bazaar including meat counter, cold storage, and associated back room office. Extend and to construct a new contemporary single storey shop front on Blackpitts Street. A new fire escape stairs & door is proposed at the rear and to open onto St Michaels Terrace & new roller shutter too replace window in 4th bay of existing warehouse. **Refused** 25/06/08
  - The site of the proposed development is zoned "Z15" in the 2005 – 2011 Dublin City Development Plan. The stated objective of this zoning

is “to provide for institutional and community uses.” The proposed retail use is not a permissible use or open for consideration and would therefore materially contravene the provisions of the development plan. As such the proposal would be contrary to the proper planning and sustainable development of the area.

- 3140/06- retention for the material change of use at ground floor level to a temporary supervised car-park. **Grant** 21/09/06
  - Condition 2 & 3 states-
    - 2. The car park spaces shall be reduced to 25 spaces.  
Reason: In the interest of the proper planning and sustainable development of the area.
    - 3. This permission is for temporary use of the ground floor of the warehouse as a car park and shall expire by the 01/08/2009 unless before that date permission for its retention has been granted.  
Reason: In the interest of the proper and sustainable planning of the area.

## 6.0 Policy Context

### 6.1. National Guidelines and Policy

- 6.1.1. National Planning Framework (NPF) - the Government’s high-level strategic plan for shaping the future growth and development of Ireland to the year 2040-
- National Policy Objectives (NPO) 2(a) relates to growth in cities
  - NPO 3(a)/(b)/(c) relates to brownfield redevelopment targets
  - NPO 4 relates to attractive, well-designed liveable neighbourhoods
  - NPO 5 relates to sufficient scale and quality of urban development
  - NPO 6 relates to increased residential population and employment in urban areas

- NPO 13 identifies building height as an important measure for urban areas to deliver and achieve compact growth.

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

Section 1.19 states-

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

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

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

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

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

Section 2.15 states-

*In accordance with Section 28 of the Planning and Development Act 2000, as amended, planning authorities must apply the standards set out as planning policy requirements in these guidelines, notwithstanding the objectives and requirements of development plans, local area plans and SDZ planning schemes.*

Specific Planning Policy Requirement 1 states-

*Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms.....*

Section 2.22 states-

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

.....

Specific Planning Policy Requirement 2 states-

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

*....• Where between 10 to 49 residential units are proposed, the flexible dwelling mix provision for the first 9 units may be carried forward and the parameters set out in SPPR 1, shall apply from the 10th residential<sup>1</sup> unit to the 49th;*

.....

*All standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there*

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<sup>1</sup> i.e. the 10<sup>th</sup> and at least every second unit thereafter must comprise a two or more bedroom apartment. This means, for example, that a scheme of 30 units must have a minimum of 11 two or more bedroom units and may have up to 19 studio or one-bed units, of which no more than 9 may be studios.

*shall also be scope for planning authorities to exercise discretion on a case-by case basis, having regard to the overall quality of a proposed development.*

Specific Planning Policy Requirement 3 states-

*Minimum Apartment Floor Areas:*

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

Section 3.8 deals with Safeguarding Higher Standards and states-

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

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

Specific Planning Policy Requirement 4- Dual Aspect

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

*(i) A minimum of 33% of dual aspect units will be required in more central and accessible urban locations, where it is necessary to achieve a quality design in response to the subject site characteristics and ensure good street frontage where appropriate in.*

*(iii) For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha , planning authorities may exercise further*

*discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.*

#### Specific Planning Policy Requirement 5- Ground Floor Ceiling Height

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

#### Specific Planning Policy Requirement 6- Apartments per core

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

#### Section 4.12

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

#### Section 6.13

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

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

Section 1.10 suggests that in city centre areas e.g. within the canal ring in Dublin –

*“it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights by the application of the objectives and criteria laid out in Sections 2 and 3 of these guidelines, for example on suitably configured sites, where there are particular concentrations of enabling infrastructure to cater for such development, e.g. very significant public transport capacity and connectivity, and the architectural, urban design and public realm outcomes would be of very high quality.*

Section 1.17 states-

*Securing compact and sustainable urban growth means focusing on reusing previously developed ‘brownfield’ land, building up infill sites (which may not have been built on before) and either reusing or redeveloping existing sites and buildings, in well serviced urban locations, particularly those served by good public transport and supporting services, including employment opportunities.*

Section 1.20 states-

*A key objective of the NPF is therefore to see that greatly increased levels of residential development in our urban centres and significant increases in the building heights and overall density of development is not only facilitated but actively sought out and brought forward by our planning processes and particularly so at local authority and An Bord Pleanála levels.*

Section 3.1 states-

*‘In relation to the assessment of individual planning applications and appeals, it is Government policy that building heights must be generally increased in appropriate urban locations. There is therefore a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility.’*

The following Specific Planning Policy Requirements is relevant- SPPR 3A-

*It is a specific planning policy requirement that where;*

- 1. an applicant for planning permission sets out how a development proposal complies with the criteria above; and*
- 2. the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;*

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

6.1.4. The following are also considered relevant-

- Circular Letter: NRUP 02/2021- Residential Densities in Towns and Villages, as set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009);
- Urban Design Manual, A best practice guide (DEHLG May 2009)
- Development Management Guidelines for Planning Authorities June, 2007- Section 5.13 Issues relating to title to land-

*‘The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development.’*

- Transport Infrastructure Ireland’s ‘Traffic and Transport Assessment Guidelines May 2014’.

- Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003)
- Quantitative methods for daylight assessment are detailed in the following documents:
  - BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice’ and;
  - BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting

## 6.2. Regional Guidance

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

## 6.3. Dublin City Development Plan 2016-2022

6.3.1. The operative development plan is the Dublin City Development Plan 2016-2022. The site is located in a ‘Institutional and Community – Zone Z15’ with an objective-  
*‘To protect and provide for institutional and community uses’.*

Place of public worship is listed as a *‘Permissible Use’* in the Development Plan. Residential Uses are listed as *‘Open for Consideration’* as set out in section 14.8.14 of the Development Plan.

6.3.2. The site is also located within the identified Zone of Archaeological Interest on the Development Plan zoning map.

6.3.3. The following policies are considered relevant-

- Policy SI10 -To have regard to the Guidelines for Planning Authorities on the Planning System and Flood Risk Management when assessing planning applications.

- Policy SC13 promotes sustainable densities with due consideration for surrounding residential amenities.
- Policy QH5 - addressing housing shortfall through active land management;
- Policy QH6 - sustainable neighbourhoods with a variety of housing;
- Policy QH7 - promotion of sustainable urban densities;
- Policy QH8 - promote the development of vacant and under-utilised sites;
- Policy QH11 - promotion of safety and security in new developments;
- Policy QH13 - new housing should be adaptable and flexible;
- Policy QH18 - support the provision of high-quality apartments;
- Policy QH19 - promote the optimum quality and supply of apartments.

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

- Section 4.5.3 - Making a More Compact Sustainable City;
- Section 4.5.5 - The Public Realm
- Section 4.5.9 - Urban Form & Architecture;
- Section 9.5.3 - Flood Management
- Section 9.5.4 - Sustainable Urban Drainage Systems (SUDS);
- Section 16.2 - Design, Principles & Standards;
- Section 16.5 - Plot Ratio Indicative Plot Ratio Z15 Institutional Long Term- 0.5 – 2.5
- Section 16.6 - Site Coverage Indicative Site Coverage Z15 50%
- Section 16.7 - Building Height in a Sustainable City, See also Figure.39 Building Height in Dublin Context.
  - 16.7.2 - sets out building height limits, including a 24m restriction in the Inner City.
- Section 16.10 - Standards for Residential Accommodation
  - 16.10.1 Residential Quality Standards- Apartments e.g.

- 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)
- Section 16.38 - Car Parking Standards (Area 2 / Zone 2 - maximum of '1 per dwelling').

#### 6.4. Natural Heritage Designations

- 6.4.1. The site is c. 4.2km west of the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024). The site is also c.5km south west of the North Dublin Bay SAC (000206) and North Bull Island SPA (004006).
- 6.4.2. The site is 550m north of the Grand Canal pNHA.

#### 6.5. Environmental Impact Assessment

- 6.5.1. An Environmental Impact Assessment Screening report was submitted with the 'Planning Context Report' accompanying application (and I have had regard to same).
- 6.5.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,
  - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)
- 6.5.3. It is proposed to construct 20 apartments over a mosque. The number of residential units proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 1,002 sq.m and is located within an existing built up area. The site area is therefore well below the applicable threshold of 2 ha.
- 6.5.4. The site is an existing and developed brownfield site and in my opinion is in need of regeneration. The introduction of a mosque with overhead residential development

will not have an adverse impact in environmental terms on surrounding land uses. Notwithstanding the sites location within a 'Zone of Archaeological Interest' as identified in the Development Plan it is noted that the site is not designated for the protection of cultural heritage.

- 6.5.5. The proposed development is not likely to have a significant effect on any European Site (as discussed below in section 8.9) and there is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site/or other). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other development in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Dublin City Council, upon which its effects would not be significant.
- 6.5.6. Having regard to the above I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

Two third party appeals have been received from-

1. Gráinne Noone, Principal of Presentation Primary School, Warrenmount Blackpitts. Relevant planning considerations can be summarised as follows-
  - Concerns raised in relation to the zoning history of the site. The absence of surplus lands for residential development is not compliant with Z15.
  - The site obtained permission for use as a Mosque in 2011.
  - Traffic congestion and illegal parking is an issue in this area. Was a traffic count submitted with the application. There are conflicts in traffic movements particularly around identified school hours.

- Incorporating residential use over a place of worship is unprecedented.
- The Deputy Planning Officers Report is disputed.
- A poor housing mix is proposed with poor residential standards.
- High rise development is inappropriate for a number of listed reasons.
- The appeal is accompanied by supporting documentation including photographs and images of parking in the area. Letters are also included from-
  - National Educational Psychological Service
  - Primary Care Psychological Service
  - A Parent

These three letters raise concerns over the impact of the development on students in the Autism Spectrum Disorder Unit in the school and in particular highlight the impacts of noise on children with sensory needs. The need for noise conditions is highlighted.

2. John Fisher, 35 The Warehouse, Clanbrassil Street. Relevant planning considerations can be summarised as follows-

- A mix of tenants should be supported. Allowing a segregated, single culture accommodation block will create a precedent of an isolated 'compound' that may alienate new tenants from local residents and vice versa.
- Absence of family friendly facilities including outdoor ground floor space for children. 1650mm high brick walls surrounding terrace area is inappropriate for young children. The development is not in accordance with the DCC Development Plan and DCC's 'Successful Apartment Living 2006' in this regard.
- The application indicates the apartments will be managed by the mosque and comes under the Build to Rent (BTR) Guidelines. The development is not in accordance with SPPR 7 of the 2018 Apartment Guidelines.

- The Mobility Report is misleading and does not address the current situation in relation to illegal parking. The site is located 2.7 km from Bus Aras and no buses pass the development site. The site is not located within 500m of quality public transport. DCC's report state there are no taxi ranks nearby. There is no credible reason to accept results based on mosques in London as in this case and shown in photos most people arrive by car. The use of TRICS is also questioned. Deliveries to the apartments have not been considered.
- Lack of facilities for people living with disabilities in both the mosque and apartments.
- There is little detail on the fire exit to the back of the site. This wall is not owned by the developer. Without consent to install this exit there are fire safety concerns.
- Concerns raised in relation to an increase in the number of worshippers over that permitted in the 2011 planning application.
- Inappropriate height of the development and contrary to section 16.10.10 of DCC's Development Plan. No consideration of its receiving environment.
- Breaches of the permitted use including servicing and storage of cars.
- Breaches of permitted hours of operation.

The appeal is accompanied by discs showing photographs of alleged parking infringements and a time lapse video of alleged parking and use infringements.

Concerns in relation to Covid infringements (in particular gatherings at a place of worship) have been raised. Any issues in respect of Govt or HSE infringements are a matter for enforcement/ consideration under separate legislative provisions.

## 7.2. Applicant Response

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

- The site is zoned Z15. Place of worship is a permissible use and residential use is open for consideration. The development will upgrade the existing

mosque and not result in the loss of any land to an institution. It secures the aim of the zoning objective.

- The operational hours and numbers of people attending are as per the original permission for the existing mosque. The proposal is not an intensification of the existing use in terms of hours of operation or numbers attending.
- The residential accommodation will be let and managed through the institutional mosque management and will be available to the general market and not confined to persons of the Muslim faith.
- The development has been revised after a request for additional information. It has a height of 23.16m which is within the development plan standard. The revised design also addressed concerns of transition from the surround environment. The number of units now proposed is 20.
- Other than car parking which has been accepted by DCC's Transportation Section the proposed development does not require any derogation from the provisions of the 2020 Apartment Guidelines.
- In relation to traffic congestion concerns there is no change to the use or congregation capacity of the mosque. The use as a community centre involves small numbers. Frequent and persistent traffic congestion is associated with the school. The residential element is not provided with car parking.
- The objectives of the NPF, RSES are to achieve a compact and sustainable City.
- The mosque community facilities are open to all. The proposed Mosque aims to be an integral part of the community. The design will reveal the building with a welcoming plaza. This will replace the existing warehouse that presents a wall to the street. The building will be a place of prayer, celebration and festivities that will be open to all.
- References to breach of planning permission are irrelevant.

### 7.3. Planning Authority Response

- None received

### 7.4. Observations

Nine observations were received from-

- Cllr Mannix Flynn
- Blackpitts Residents Association
- Brigid and Paul Cunningham
- Henrietta Cahill
- Patrick Coyne
- Reg Hayes
- Cllr Tina McVeigh and Brid Smith TD
- The Board of Directors of the Warehouse
- Anne Hackett

The issues raised by observers can be summarised as follows-

- Traffic Congestion, Management and Parking related issues relating to the mosque use and provision of no parking for the apartments.
- Design related matters including height, scale, visual amenity, character of the area and incongruous nature of the development in proximity to two storey housing. The proposal is out of character with the area.
- Overdevelopment of site including plot ratio, site coverage and density
- Impacts on Residential Amenity- including overlooking, overshadowing, loss of light, overbearing, noise, devaluation of property and opening of entrance door onto St. Michaels Terrace.
- Nature of proposed use given alleged unauthorised development relating to hours of operation, number of users and people living on the site.
- Lack of community facilities

- Impacts on Structural Integrity of area including works to provide basement area
- Contrary to policies of the development plan and non-compliance with the Z15 zoning objective.
- Concerns over accuracy of data provided, discrepancies in drawings and absence of public participation given timing of application during a pandemic.
- Is the proposal a Build to Rent Scheme

## 8.0 Assessment

### 8.1. Introduction

8.1.1. I have examined the application details and all other documentation on file, including the submissions and observations received in relation to the appeal. I have inspected the site and have had regard to relevant local/regional/national policies and in particular Ministerial Guidelines setting Specific Planning Policy Requirements (SPPR).

8.1.2. I consider the substantive issues arising from the grounds of appeal and for assessment in the appeal, relate to the following-

- Zoning, Principle of Development and Intensification of Use
- Building Height and Design
- Apartment Standards
- Overdevelopment and Density
- Residential Amenity
- Transport Related Issues
- Other Matters
  - Noise
  - Community Use
  - Structural Integrity

- Protected Structure
- Accuracy of Drawings, Reports and Discrepancies
- Appropriate Assessment

## 8.2. Zoning, Principle of Development and Intensification of Use

8.2.1. The site is located on lands zoned 'Institutional and Community – Zone Z15' with an objective-

*'To protect and provide for institutional and community uses'.*

'Place of public worship' use is listed as a '*Permissible Use*' and 'Residential' use is listed as '*Open for Consideration*' in section 14.8.14 of the DCC's Development Plan.

8.2.2. Under planning permission 2033/11 Dublin City Council permitted the retention of the existing building for use for religious, cultural and community purposes with a specific condition in relation to opening hours as follows-

*'The hours of opening shall be between 7.00 and 20.30 hrs from Monday to Sunday, and shall not be outside these hours without the prior grant of a separate planning permission.'*

8.2.3. In paragraph 5 of the Planning Report submitted with the subject application under appeal- 'Mosque Operations' the applicants have indicated the hours of operation at the Mosque are between 7 am and 8.30 pm. Friday is the main day with approximately 500 people attending the facility on that day. On other times and days there would be approximately 20 people. The applicants have also clearly indicated in Section 2.0 of the Further Information Schedule of Accommodation- Mosque Schedule that the maximum users of the Mosque Prayer Space will be 500.

8.2.4. Having considered the existing and permitted use on the site, I am satisfied the Mosque element and use of the proposed development is in accordance with, and consistent with, the permission granted under 2033/1. It does not in my opinion represent an intensification of the use of the site. Furthermore, the Development Plan details that a 'Place of Public Worship' is a *permissible use*' on Z15 lands.

8.2.5. I note the concerns raised by the appellants and observers in terms of the use and operating hours at the site. I visited the site during the morning of Friday April 30<sup>th</sup> 2021. During my site inspection I did not observe any obvious unauthorised

development. I acknowledge that this was during a period of Covid lockdown when such facilities were not permitted to operate as normal. Notwithstanding this, I consider the concerns relating to use and operating hours are enforcement matters that fall under the jurisdiction of the City Council. DCC do not appear to have raised any such concerns during the course of their assessment. Furthermore under section 21 of the application form the applicants have indicated that no statutory notices e.g. 'Enforcement' apply to the site at present. DCC have validated the application. Accordingly, in this context, I consider the allegations of unauthorised development are not a material consideration in respect of this application.

- 8.2.6. Residential development is an '*open for consideration*' use within Z15 zoned lands. Section 14.4 of the Development Plan states the following with respect to 'open for consideration' uses-

*'An open for consideration use is one which may be permitted where the planning authority is satisfied that the proposed development would be a use compatible with the overall policies and objectives for the zone, would not have undesirable effects on the permitted uses, and would otherwise be consistent with the proper planning and sustainable development of the area.'*

Section 14.4 also details that '*Uses not listed under the permissible*' or '*open for consideration*' categories will be deemed as not permissible uses in principle in zones such as Z15. As residential development is clearly listed as open for consideration under Z15 zoning, it is clearly an acceptable land use. If DCC deemed that residential development was not acceptable, it would not have been included in the list. Therefore, residential development is clearly an acceptable land use on lands zoned for Z15 purposes. Furthermore, I note that the Planning Authority, in their own assessment agreed that the development is consistent with the Z15 zoning objective.

- 8.2.7. Section 14.8.14 of the Development Plan provides further guidance for development in the Z15 zone. The Plan states-

*"With any development proposal on these lands, consideration should be given to their potential to contribute to the development of a strategic green network (see also Chapter 10 – Green Infrastructure, Open Space and Recreation), and to the delivery of housing in the city."*

Noting the sites Inner City context, it is my view that this site does not have the potential to contribute to the development of a 'Strategic Green Network' as envisaged in the Development Plan (See Fig. 14). I do however consider the use of upper levels for the delivery of housing in the city to be in accordance with the Z15 zoning provisions.

- 8.2.8. I have also considered DCC's Core Strategy as set out in Chapter 2 of the Development Plan with respect to housing. The core strategy detail that the policies and objectives of the Plan promote intensification and consolidation of the city. This will be achieved in a variety of ways including-

*'including infill and brownfield development; regeneration and renewal of the inner city; redevelopment of strategic regeneration areas; and the encouragement of development at higher densities, especially in public transport catchments.'*

It is further noted that the Plan policies underpin the creation of a compact city with mixed-use environments and sustainable neighbourhoods.

- 8.2.9. Chapter 2, Table C of the Development Plan details suitable land uses other than Z1 and Z2 zonings for the purposes of residential use or a mix of residential. Such lands include Z15 zoning. I am fully satisfied that Z15 lands are required to achieve DCC's housing targets and have been included in assessments to meet the core strategy requirements into the future.

- 8.2.10. I note concerns raised in relation to the overall intensification of use of the site. As already determined, the Mosque element of the development clearly remains consistent with the existing and permitted use on site. I appreciate that the provision of 20 residential units is a new and second use of an existing site. The residential use could have a capacity for c.73-76 residents as well as the maximum 500 users of the Mosque on Fridays. However this should be balanced against the times and use of the Mosque function where it is indicated as c. 20 people on other days. Furthermore the proposal does not provide for resident or Mosque car parking and is located in an Inner City location proximate to good public transport options and other benefits and amenities of such a central location. While the use of the site could be considered intensified, I contend this would not be significant or to the detriment of the area. It would instead provide a more sustainable use of a site that is well served

by public investment and would contribute to, and underpin the development of a compact city as espoused in the Development Plan and national policy.

8.2.11. Section 14.8.14 (Institutional and Community – Zone Z15) of the Development Plan also requires-

*‘development at the perimeter of the site adjacent to existing residential development shall have regard to the prevailing height of existing residential development and to standards in Section 16.10 (standards for residential accommodation) in relation to aspect, natural lighting, sunlight, layout and private open space, and in Section 14.7 in relation to the avoidance of abrupt transitions of scale between zonings.’*

Section 14.7 deals with ‘Transitional Zone Areas’ and states-

*‘it is important to avoid abrupt transitions in scale and use zones. In dealing with development proposals in these contiguous transitional zone areas, it is necessary to avoid developments that would be detrimental to the amenities of the more environmentally sensitive zones. For instance, in zones abutting residential areas or abutting residential development within predominately mixed-use zones, particular attention must be paid to the use, scale, density and design of development proposals and to landscaping and screening proposals in order to protect the amenities of residential properties.’*

8.2.12. Lands which include Warrenpoint School to the northern boundary of the site, are zoned Z15. The property to the immediate south of the subject site, No. 24 Blackpitts is a two storey house and is also zoned Z15. In this context I do not consider there to be a ‘*contiguous transitional zone*’ between the site and these properties.

8.2.13. Lands directly to the east of the site include the public road which provides an existing and acceptable transitional zone to lands further east which are zoned Z1. (Sustainable Residential Neighbourhoods).

8.2.14. The western boundary of the site adjoins two storey housing on St. Michaels Terrace and St. John’s St. These lands are zoned Z1. I consider a ‘*contiguous transitional zone*’ exists between these lands.

8.2.15. In seeking Additional Information the Planning Authority raised specific concerns in relation to height and transition to adjacent two storey houses with specific reference

to the property to the south i.e. no. 24. The proposal as amended at Additional Information stage reduced the height, scale and density of the development. In my opinion and as further discussed in sections 8.3-8.6, the revised design provides a suitable transition which avoids abrupt transitions of scale between lands zoned Z15 and Z1 to the west.

8.2.16. There is an existing community use on the site i.e. a place of public worship. The application also proposes a 'Residential Use' i.e. an '*open for consideration use*'. In this context Section 14.8.14 of the plan requires such proposals-

*'...to demonstrate to the planning authority how the proposal is in accordance with and assists in securing the aims of the zoning objective; how it secures the retention of the main institutional and community uses on the lands, including space for any necessary expansion of such uses; how it secures the retention of existing functional open space e.g. school playing fields; and the manner in which the nature and scale of the proposal integrates with the surrounding lands.'*

Section 14.8.4 details a masterplan may assist in demonstrating the above but is not required in the case of minor developments associated with the existing use or where the development proposed relates to extensions to the existing community and institutional use and would enhance the facilities.

8.2.17. In section 7 of the Planning Context Report submitted with the application the applicants contend the proposal retains and upgrades the mosque and will not result in the loss of any land to an institution. They also detail that due to the size and history of the site that masterplanning would not be required and that public open space would not be justified. A financial contribution in lieu may be considered. I note the applicants have submitted a 'Ground Floor Masterplan' drawing (33-RFI-001A) at Additional Information stage. This drawing is considered a landscaping proposal rather than formal masterplanning.

8.2.18. The application proposes replacing the existing community use with an enhanced facility and the provision of a residential units above. This is clearly in accordance with the zoning objective of the site. In my opinion, the requirement and necessity of Masterplans is generally for much larger parcels of land than just individual application sites. In the context of the application site this could be considered to

include for all the Z15 lands that make up lands including Warrenpoint School. I note DCC have not raised any issues in this context. I also note the Development Plan specifically states a Masterplan 'may' assist in demonstrating how requirements are met. In this regard I am satisfied the application on its own right, clearly retains the existing community use (i.e. replacement) as well as providing an 'open for consideration' use. These uses would contribute to securing the aims of the zoning objective. Furthermore, the configuration of the site in the context of the overall lands zoned Z15 in the area, is such that the proposed development would not prejudice the appropriate redevelopment of those lands in the future.

8.2.19. I note section 14.8.14 of the Development Plan also provides for circumstances where a Masterplan for Z15 lands would provide the identification of 25% of the lands for open space and/or community facilities. Such circumstance would be in a scenario '*where there is no longer a need for the existing institutional use*'. The applicants have indicated they are willing to consider a financial contribution in lieu of public open space. The Planning Authority have not sought such a contribution through condition. As the proposals provides for the replacement of an existing community use and as a Masterplan is not in my opinion required I consider there to be no requirement to seek a contribution in lieu of open space as per the provisions of section 14.8.14.

8.2.20. In conclusion, I am satisfied that the Z15 zoning provides for a '*place of public worship*' as a Permissible Use and includes '*residential*' use as 'Open for Consideration'. The provision of 20 apartments will contribute towards housing requirements which have been taken into account as part of the core strategy. I am also satisfied that the existing community use is being protected and provided for on the lands in accordance with the Z15 zoning objective. Therefore having considered the permitted development on the site and the nature of the proposed development and uses, I am satisfied the proposed development complies with, and is consistent with, the overall Z15 zoning objective of the site.

### 8.3. **Building Height and Design**

8.3.1. Initially the Planning Authority requested Additional / Further Information in relation to the impact of overbearing from the proposed development on the adjoining two

storey house to the south having regard to the overall height of the development and its transition in scale.

- 8.3.2. The original building design reflected 'Ziggurat' architectural features with each floor receded in a pyramidal style with a centre most high point. In this case the building bounds the adjoining house to its south with a height of 7.55m, a building behind with a height of c.11m and rising northwards in a stepped fashion to c. 15m, c. 21m, c.24m to a final height of 26.23m. The height falls more gradually to the northern boundary of the site in a similarly stepped fashion to a height of c. 22m where the site adjoins the entrance driveway to Warrenpoint School.
- 8.3.3. The applicants submitted a revised proposal in response to DCC's Additional / Further Information request reducing the building height by omitting a lower level floor. The revised building bounds the adjoining house to its south with a height c. 7.5m, a building behind with a reduced height of c.7.7m and rising northwards in a stepped fashion to c. 11.5m, c. 14m, c. 17m, c. 21m with a final height of 23.16m. The height falls to the northern boundary of the site in a stepped fashion to a height of c. 21.8 and c.19m where the site adjoins the entrance driveway to Warrenpoint School.
- 8.3.4. The general area of the site can be characterised as predominantly residential with two storey houses to the south and west of the site. There are c. 4-5 storey apartments style developments opposite and to the north east of the site. A school and associated grounds are located to the immediate north. The existing building is an enclosed warehouse style building behind high walls that does not provide an active street frontage despite its permitted use and in my opinion represents a poor use of and addition to the streetscape.
- 8.3.5. The proposed development is a unique building design for this area and is reflective of its 'mosque' use. It creates an upward transition from the predominant two storey style development to the south before less of a transition down to its northern boundary where the proposal does not adjoin another building.
- 8.3.6. Section 16.7.2 of the Development Plan deals with 'Height Limits and Areas for Low-Rise, Mid- Rise and Taller Development'. This section and Figure 39 'Building Height in Dublin Context' identifies a 24m height restriction in the Inner City.

8.3.7. The 'Urban Development and Building Heights Guidelines for Planning Authorities (2018)' detail that a criteria-based assessment should be undertaken in accordance with these guidelines when considering proposed tall buildings. Section 1.10 states-

*'within the canal ring in Dublin..... In such areas, it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective, subject to keeping open the scope to consider even greater building heights by the application of the objectives and criteria laid out in Sections 2 and 3 of these guidelines.'*

8.3.8. Section 2.3 of the Guidelines details that building-up urban infill sites is required to meet the needs of a growing population and '*increased building height is a significant component in making optimal use of the capacity of sites in urban areas*'.

8.3.9. Section 3.1 of these Guidelines states-

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

This section also details that Planning Authorities must apply broad principles in considering development proposals for buildings taller than prevailing building heights in urban areas. These principles can be summarised as-

- Does the proposal positively assist in securing NPF objectives of focusing development in key urban centres e.g. brownfield, infill development and compact growth in our urban centres?
- Where the Development Plan pre-dates these guidelines, can it be demonstrated that implementation of the policies and objectives do not align with the NPF?

In this regard, I am satisfied that the development as proposed will provide appropriate redevelopment of an underutilised brownfield, infill site that will contribute to compact growth of Dublin. I am also satisfied the development complies with section 16.7.2 of the DCC Development Plan in terms of heights in the Inner City.

8.3.10. Section 3.2 of the guidelines detail the applicant shall demonstrate to the satisfaction of the Planning Authority/ An Bord Pleanála, that the proposed development satisfies 'Development Management Criteria' including the scale of the relevant city, neighbourhood & street and also the scale of the site/building itself.

8.3.11. In the original Planning Report submitted with the application the applicants address the criteria of the Guidelines-

- Scale of City
  - the sites is proximate to Clanbrassil St which is a main thoroughfare into the city and served by numerous bus routes
  - the proposal integrates into surrounding context by providing setbacks at upper floors to respect residential amenity
  - the current site is not in keeping with the surrounding developments
- Scale of Neighbourhood /Street
  - Positive contribution to streetscape,
  - mixed use development in accordance with the zoning objective
  - Not monolithic
- Scale of site/building
  - Massing of proposal is broken up by the setbacks at upper floors with highest point located in the centre of the site, away from boundaries.
  - A shadow assessment has also been submitted.

8.3.12. The applicants have not sought to justify the revised proposal submitted in response to Additional Information in the context of the Guidelines.

8.3.13. Specific Planning Policy Requirement (SPPR) 3A of the Guidelines details that

- where an applicant for planning permission sets out how a development proposal complies with the identified Development Management Criteria and
- the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the National Planning Framework and these guidelines;

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

8.3.14. Notwithstanding the somewhat limited submission by the applicants in relation to the proposal submitted at Additional Information Stage in the context of the Development Management Criteria listed in the Guidelines, it is my opinion that the revised proposal through the omission of one floor and 7 apartments, would be higher than the general area. However it generally complies with the strategic and national policy parameters set out in the NPF and the Building Height Guidelines and would contribute to compact growth. Furthermore the proposed height is in accordance with section 16.7.2 of the Dublin City Development Plan. Overall the proposed design represents a unique design approach for the site that in my opinion would make a positive contribution to the site, the streetscape and the city area as a whole and would provide appropriate regeneration of an underutilised site in terms of the Building Height Guidelines and the NPF.

#### **8.4. Apartment Standards**

8.4.1. Concerns have been raised by an appellant in relation to the intended users of the apartment development. In this regard the applicants have not applied for a Build to Rent Scheme and the proposal does not aim to meet the criteria for Build to Rent schemes as set out in Section 5 of the Apartment Guidelines. Furthermore the applicants have clearly indicated in their response to the appeal that the apartments will be available to the general market and are not confined to persons of the Muslim faith.

8.4.2. Following a request for Additional Information the applicants have revised the proposal from 27 apartments to 20 apartments.

8.4.3. The Planning Authority have raised no concerns in relation to the proposed apartment standards which they have assessed against the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2018 (DoHPLG). It is noted these guidelines were updated in December 2020 and it is the latter Guidelines that will form the basis of this assessment.

8.4.4. The proposal is considered to be an 'Urban Infill Scheme' on a site of 1,002 sq.m and is located within a 'Central and/or Accessible Urban Location' as described in section 2.4 of the Guidelines. It is considered appropriate to assess the proposed development against the following Specific Planning Policy Requirements of the Guidelines- SPPR 1, 2, 3, 4, and 6.

8.4.5. SPPR 1 and 2

This application proposes 20 apartments consisting of 5 no. 1-bed units, 12 no. 2-bed units and 3 no. 3 bed units. Having regard to the provisions of SPPR 1 and 2 in relation to Housing Mix I am satisfied the proposed housing mix is acceptable.

8.4.6. SPPR 3

SPPR 3 sets out minimum requirements for apartment floor areas and in particular requires-

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

Section 3.0 Apartment schedule of the 'Further Information Schedule of Accommodation' details the following provision-

- 1 bedroom apartments (2 person) at 53.2 sq.m
- 2 bedroom apartment (4 persons) ranging from 80.2 sq.m – 85.4 sq.m
- 3 bedroom apartments (5 persons) ranging from 112.1 sq.m - 128.9sq.m

I am satisfied the proposed provision of floorspace to all apartments is acceptable.

8.4.7. Section 3.8- Safeguarding Higher Standards

Section 3.8 seeks to ensure delivery of apartments that are not built down to a minimum standard, but that reflect a good mix of apartment sizes. Accordingly, it is a stated requirement of the Guidelines that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area standard for any combination of the relevant 1, 2 or 3 bedroom unit types, by a minimum of 10%.

I have reviewed the proposed apartment sizes and note 10 apartments exceed the minimum required floor space by 10%. In many cases these exceeds the 10% by a significant amount.

10 two bedroom apartments do not exceed 10% minimum floorspace and therefore the proposed development does not meet the requirement of 'majority' or in this case 11 apartments. However the 10 apartments that do not meet this standard provide 80.2 sq.m instead of the required 80.3. Section 3.12 of the guidelines provides for such scenarios and details it is acceptable to redistribute the minimum 10% additional floorspace requirement throughout the scheme, i.e. to all proposed units, to allow for greater flexibility. In this context the 3 no. three beds, 5 no. 1 beds and 2 other 2 bed apartments all significantly exceed the 10% requirement.

I am satisfied, the proposed development complies with the requirements of section 3.8 of the Guidelines.

#### 8.4.8. SPPR 4

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

The applicants are proposing 15 dual aspect apartment which equates to 75% of the scheme. 5 one bedroom apartments are single aspect and face east towards the public road.

I am satisfied the proposed development complies with SPPR 4.

#### 8.4.9. SPPR 6

This SPPR requires a maximum of 12 apartments per floor per core may be provided in apartment schemes. The proposed development appears to provide a maximum of 11 apartments accessing the second floor from one core. I am satisfied the proposed development complies with SPPR 6.

#### 8.4.10. Other Requirements

The apartment guidelines sets out a number of other requirements. The following are considered most pertinent-

- Appendix 1 details requirements in relation to '*Required Minimum Floor Areas and Standards*' for living/dining/kitchen areas, bedrooms, storage and private amenity space. Having reviewed the submitted drawings and Apartment Schedule, the proposed development appears to meet the majority of these requirements. I note secure, allocated basement level storage is provided for all apartments and this generally appears to accord with section 3.33 of the Apartment Guidelines.
- Section 3.31 of the Guidelines details that '*as a rule, no individual storage room within an apartment should exceed 3.5 square metres*'. Having examined the drawings I note 2.2 sq.m of storage space is provided with a room identified as 'office' for 3-bed apartments number 12 and 18. These rooms both have windows and the combined office and storage space would appear to be 7.2m which exceeds the minimum requirement of 7.1 sq.m for a single bedroom. Accordingly, should permission be granted it is considered appropriate that the use of these rooms be conditioned for office and storage purposes only as per the drawings.
- Communal Amenity Space (Appendix 1 and Section 4.10)

Based on the provision of 20 apartments Appendix 1 sets a requirement for 136 sq.m of communal amenity space. The Further Information Schedule of Accommodation indicates 234 sq.m of communal amenity space is proposed. Communal Amenity Space appears to be proposed as follows-

- 2 no. external terraces at second floor level- 67.1 sq.m
- 2 no. external terraces at fourth floor level- 50.7 sq.m.
- 2 no. external terraces at fifth floor level- 48.4 sq.m.
  - Total external communal space is 166.2 sq.m.
- 2 communal rooms on the second and fourth floors- 25.9 sq.m each
  - Total communal rooms- 51.8 sq.m
- 2 communal balcony areas off the communal rooms- 7.8 sq.m each
  - Total communal balconies- 15.6 sq.m

Sections 4.5 and 4.10 of the 2020 Apartment Guidelines clearly distinguish between Communal Facilities and Communal Amenity Space with rooms considered 'facilities' rather than space. Section 4.10 Communal Amenity Space details '*accessible, secure and usable outdoor space is a high priority for families with young children and for less mobile older people*'. In this regard I do not consider it appropriate to include the Communal Rooms and Balconies off these rooms for the purpose of calculating the minimum required areas as per Appendix 1 of the Guidelines i.e. 136 sq.m. However the application still provides 166.2 sq.m of external communal amenity spaces and meets the minimum required Communal Amenity Space as per the Guidelines.

In my opinion the provision of two sizeable communal rooms with private balconies adjoining communal terraces would contribute significantly and positively to the overall quality of the development.

- Building Lifecycle Report (Section 6.13)

It is a requirement of the Apartment Guidelines that such proposals shall include a building lifecycle report. This is to include an assessment of the long term running and maintenance costs of the development and would clearly be for the benefit of future apartment owners and residents. This does not appear to have been submitted. I am satisfied this requirement can be met through a condition should the Board decide to grant permission.

### Conclusion

The site is located in area that can be described as a Central and/or Accessible Urban Location in accordance with the 2020 Apartment Guidelines. The proximity of the site to public transport on Clanbrassil Street is evident. Overall the proposal will provide for a mixed use scheme providing a place for public worship and 20 apartments ranging from 1 bed to 3 beds. Dublin City Council have deemed the proposal acceptable in the context of the 2018 Apartment Guidelines (now superseded by the 2020 Guidelines).

In accordance with Section 28 1 (c) of the Planning and Development Act, 2000-20 (as amended) and Section 1.19 of the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, December 2020',

I consider the proposed development complies with all relevant SPPR's and is generally in accordance with all other requirements of the 2020 Apartment Guidelines.

## 8.5. Overdevelopment and Density

- 8.5.1. A number of third party submissions to the application and observations to the Appeal have raised concerns in relation to overdevelopment of the site including references to plot ratio, site coverage and density.
- 8.5.2. The Planning Authority have not raised any concerns in this regard but did highlight that plot ratio and site coverage exceed the indicative plot ratio and site coverage standards as outlined in the Development Plan. The Planners Report detailed the existing site coverage on the site at 100% and is located within an area which is undergoing a process of urban renewal. They considered the plot ratio and site coverage acceptable in this context.

### Overdevelopment

- 8.5.3. Section 4.20 of the 2009 Sustainable Residential Development in Urban Areas Guidelines (SRDUA) recommended standards to ensure that there are adequate safeguards in place to avoid overdevelopment and to assist in the assessment of planning applications.
- 8.5.4. For large infill sites or brownfield sites the SRDUA guidelines recommend public open space should generally be provided at a minimum rate of 10% of the total site area. This application does not provide any public open space.
- 8.5.5. Section 4.21 of the guidelines details-

*'It will be necessary for planning authorities to take a more flexible approach to quantitative open space standards and put greater emphasis on the qualitative standards'...*

and

*'where residential developments are close to the facilities of city and town centres or in proximity to public parks or coastal and other natural amenities, a relaxation of standards could be considered. Alternatively, planning authorities may seek a financial contribution towards public open space or*

*recreational facilities in the wider area in lieu of public open space within the development.'*

- 8.5.6. Public open space is not a requirement for apartment developments as set out in the Apartment Guidelines. The site is located close to the facilities of Dublin City centres and in reasonable proximity of its public parks and amenities. As set out in section 8.2.19 I do not consider a financial contribution towards public open space or recreational facilities in the wider area is necessary for the site.
- 8.5.7. Section 16.5 and 16.6 of the Dublin City Development Plan identifies 'Plot Ratio' and 'Site Coverage' standards. Plot Ratio is described as a tool to help control the bulk and mass of buildings. Site Coverage is described as a control for the purpose of preventing the adverse effects of overdevelopment, thereby safeguarding sunlight and daylight within or adjoining a proposed layout of buildings. For Z15 zoned lands the development plan sets indicative requirements of 0.5-2.5 for plot ratio and 50% for site coverage.
- 8.5.8. Based on the stated dimensions provided on the 'Site Layout Existing' drawing number 14.170.PD101 existing plot ratio is c. 1:1.67 (allowing for the enclosed yard area). Existing site coverage is c. 74%.
- 8.5.9. The application proposes a plot ratio of 1:3.5 and site coverage of 62.7 (detailed in 'Further information Schedule of Accommodation' Section 1.0 Overview Schedule). These standards exceed the Development Plan standards. The plan does allow for higher plot ratio and site coverage in circumstances such as the following which in my opinion apply to this proposal-
- Adjoining major public transport termini and corridors, where an appropriate mix of residential and commercial uses is proposed
  - To facilitate comprehensive redevelopment in areas in need of urban renewal
  - Where a site already has the benefit of a higher plot ratio/site coverage.

The development plan also details that *'plot ratio standards need to be used in conjunction with other development control measures'* and *'site coverage is a tool particularly relevant in urban locations where open space and car parking standards may be relaxed.'*

- 8.5.10. Section 8.4 of this assessment demonstrates that the proposed development generally complies with other development control measures as per the requirements of the 2020 Apartment Guidelines, such as floor areas, private amenity space and communal amenity space.
- 8.5.11. Overall, I am satisfied that the development as proposed does not represent overdevelopment of the site.

*Density*

- 8.5.12. National Policy Objective 35 of the National Planning Framework promotes increasing residential density in areas such as the subject site, through a range of measures including increased building heights. Policy SC13 of the DCC Development Plan also promotes sustainable densities particularly in public transport corridors.
- 8.5.13. The application proposes 20 units per ha. The dual use of the site should also be considered.
- 8.5.14. Under section 8.4 above, I have determined the site can be described as a 'Central and/or Accessible Urban Location' under the 2020 Apartment Guidelines which details that such locations are generally suitable for small to large scale and higher density developments. This specifically includes sites within easy walking distance to/from high frequency (i.e. min 10 minute peak hour frequency) urban bus services. The sites proximity c. 150m to public transport on Clanbrassil Street is evident.
- 8.5.15. The SRDUA Guidelines 2009 encourage more sustainable development through the promotion of higher densities in appropriate locations. Section 5.4 details '*Appropriate Location for Increased Densities*' and paragraph (a) section 5.5 deals specifically with 'Cities and Town Centres'. It discusses how the increase of population within city or town centres with their range of uses can help to curtail travel demand. These locations have the greatest potential for the creation of sustainable patterns of development. Increasing populations in these locations can also assist in regeneration, make more intensive use of existing infrastructure, support local services and employment, encourage affordable housing provision and sustain alternative modes of travel such as walking, cycling and public transport.

8.5.16. Section 5.6 outlines how in order to maximise inner city and town centre population growth, there should, in principle, be no upper limit on the number of dwellings that may be provided within any town or city centre sites.

8.5.17. Section 5.7 defines 'Brownfield' lands in the context of cities-

*“any land which has been subjected to building, engineering or other operations, excluding temporary uses or urban green spaces”,*

In my opinion the subject site can be described in accordance with this definition.

This section goes on to state

*‘where such significant sites exist and, in particular, are close to existing or future public transport corridors, the opportunity for their re-development to higher densities, subject to the safeguards expressed above or in accordance with local area plans, should be promoted, as should the potential for car-free developments at these locations.’*

The referenced safeguards are set out in section 5.1 of the guidelines and include acceptable building heights, avoidance of overlooking and overshadowing and provision of adequate floor space and private open space. These safeguards are addressed separately in this assessment and I note the proposed development provides for no car parking.

8.5.18. The application proposes 20 residential units per ha. This could generally be considered low for city centres however in the sites existing context of no units per ha, the proposal should be considered an increased and welcomed density. The density has been revised down from 27 units per hectare to address the Planning Authorities concerns relating to safeguards such as height and overlooking. I also note the mixed use nature of the proposal which includes for a Mosque. I am satisfied the proposed density is in accordance with the provisions of the NPF, the SRDUA Guidelines and the DCC Development Plan and will contribute to compact city development.

## 8.6. Residential Amenity

### 8.6.1. Introduction

A number of concerns have been raised by the appellants and observers. These matters can be summarised as follows-

- Overlooking,
- Daylight and Sunlight Impacts
- Overbearing,
- Opening of Fire Exit door onto St. Michaels Terrace and
- Devaluation of property

I propose to look at each of these in turn and in more detail.

#### 8.6.2. **Overlooking**

- a. Concerns are relation to overlooking of property in the area. The Planning Authority sought proposals to address their own overlooking concerns at Additional Information stage. The applicants have submitted revised proposals in response including an updated 'Overlooking Report'. The Planning Authority considered the proposal acceptable subject to a condition requiring all walls surrounding terraces and privacy screens shall have a minimum height of 1.8m.
- b. The Overlooking Report submitted at Additional Information Stage takes guidance from Section 16.10.2 of the Dublin City Council Development Plan which details that a separation of about 22 m was sought between the rear of 2-storey dwellings but this may be relaxed if it can be demonstrated that the development is designed in such a way as to preserve the amenities and privacy of adjacent occupiers.
- c. Based on the metric of 22m the Overlooking Report identifies four areas at risk of overlooking from the development. I consider this a reasonable basis for the purposes of identifying areas at risk from overlooking in the context of this urban environment.
- d. The report proposes two main overlooking prevention measures-
  - perforated steel screens placed on the rear façade of most windows at an angle c. 0.5m outside of windows and off the wall, to prevent

overlooking from rear windows. Fig 6 of the report shows these screens with an impeded view from an eye level at 1.6m internally i.e. from within rooms.

- 1.65m high walls surrounding all roof terraces
- e. The areas identified by the report are private amenity spaces to No. 24 Blackpitts and No. 3 & 4 St Michaels Terrace and an open amenity space (Play area) associated with the neighbouring Primary School. These spaces are all within 11 metres of the site boundaries.
- f. The space identified to No. 24 Blackpitts (Site 1) adjoins to the south of the site. There are communal terraces at second and fourth floors to the southern boundary. There are also private terraces to this boundary at third and fifth floors. The terrace at second and third floors are to the front of the site with views to private amenity space of No. 24 oblique and impeded by the proposed and enclosed staircase/fire escape along the southern boundary. The communal terrace at fourth floor is recessed c. 5.555m, from the site boundary but does face directly towards the rear of No. 24. Screen walls are proposed and indicated with a height of 1.65m. As per the recommendation of the Planning Authority I would agree that this should be increased to 1.8m. Terraces at fifth floor level are set back from 9.405m to 11.610m and also propose screen walls. These should also be increased to 1.8m.
- g. The space identified for No. 3 St Michael's Terrace (Site 2) appears to be a small narrow area enclosed to the side of the house. I note the proximity of bedroom windows to apartment 11 at first and second floors. These windows are set back c.4m from the rear site boundary. A privacy screen is not proposed to the window of bedroom 2 at first floor level. Given the set back of this window from the boundary and the nature of the space to the side of No.3 St Michaels Terrace I consider there will be minimal if any overlooking impact. Bedroom 1 to apartment 11 at second floor is orientated towards St Michaels Terrace. Given its height oblique views to the space to the side of No.3 St Michaels Terrace may be possible but I do not consider them significant. Notwithstanding this a privacy screen is proposed. In my opinion

there are no other windows likely to have an overlooking impact to the identified area to the side of No.3 St Michaels Terrace.

- h. The space identified for No. 4 St Michael's Terrace (Site 3) is a small, enclosed area to the side and rear of the house. Some bedroom windows in apartments 1, 2, 4 at first and second floors, apartments 12 and 13 at third and fourth floors and apartment 20 on the fifth floor face west and directly into the space at the rear of No. 4. These windows are setback a stated distance of 4.2m from the site boundary. I also note communal terraces facing west on the fourth and fifth floors to the rear of No. 4. The overlooking prevention measures as listed above and demonstrated in Fig. 32, 33 are generally considered reasonable as they will force the line of sight away from the space to No.4. However privacy wall screen heights should be increased to 1.8m at terraces.
- i. The space identified for Presentation Primary School is to the north of the site and over a play area associated with the school (Site 4). The drawings show a communal terrace 0.745m from this boundary at second floor level. A private terrace is proposed at third floor and views towards the school grounds will be impeded by the proposed stairwell.. The communal terrace at fourth floor is set back 4.245 m from the boundary and screen walls are proposed. The communal terraces at fifth floor are set back a minimum of 8.145m with screen walls proposed. Having regard to the nature of the proposed school use, privacy/screen wall heights should be increased to 1.8m around all these terraces. There are no habitable room windows to apartment directly orientated towards the school.
- j. The overlooking prevention measures proposed by the applicants are generally considered reasonable. The perforated screens to the rear elevation are set of the rear windows by c. 0.5m and will force the line of sight directly out and away from areas at risk of overlooking. Setting it off the rear wall negates the need for a height of 1.8m. I also consider the number of these screens is not needed for the amount of windows proposed. However I note they are also a design feature with traditional 'Islamic Mashrabiya decoration' and in this context are considered suitable given the nature of the proposed building.

- k. Subject to raising the height of the terrace walls to 1.8m in accordance with Condition 5 of DCC grant of permission I am satisfied these measures are sufficient to address concerns of overlooking from the proposed development. These terraces are sizeable and at roof level. I do not consider raising their height will impact upon the quantity or quality of light each space receives.
- l. Privacy measures between private amenity space i.e. balconies are unclear from the drawings and I note DCC have attached a condition in this regard. Given the proximity of some of these balconies to each other such a condition is considered appropriate.
- m. Should the Board decide to grant permission I recommend suitable conditions to address the matters raised in this section.

### 8.6.3. Daylight and Sunlight Impacts

- a. The residential amenity impacts in this regard generally relate to overshadowing and loss of daylight and sunlight. These impacts will be considered in the context of existing properties in the area as well as the future amenity of occupants to the proposed development.
- b. Section 3.2 of the Urban Development and Building Height Guidelines (2018) in discussing the scale of the site/building, detail that proposed developments should be designed to minimise overshadowing and loss of light. They also detail that '*appropriate and reasonable regard*' should be taken of quantitative performance approaches to daylight provision outlined in guides like BRE 209 and 'BS 8206-2: 2008.
- c. The Guidelines also outline considerations should a proposal not fully meet all the requirements of the '*daylight provisions*' listed above. They 'must' be clearly identified and a rationale for any alternative, compensatory design solutions must be set out. An Board Pleanala may apply discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution.

- d. Section 6.6 of the 2020 Apartments Guidelines also detail regard should be had to '*daylight provision*' outlined in BRE 209 or BS 8206: 2008.
- e. The applicants have submitted a 'Design Statement' for the original proposal. Page 26 carries out a 'Light Analysis' assessment for Average Daylight Factor (ADF) received in all habitable rooms on the lower ground floor of the proposed development. This assessment refers to recommendations of BS8206-2 Code of Practice for daylighting. It is assumed the applicants refer to BS-8206 2008. I note this was replaced by BS EN 17039:2018 Daylight in Buildings. I am satisfied this replacement document does not have a material bearing on the outcome of this assessment.
- f. The applicants have also submitted a 'Daylight Analysis and Overshadowing Report' with the original application which is reflected on page 27 of the 'Design Statement'. It makes reference to section 16.2.1.2 of the Dublin City Development Plan which details design should minimise overshadowing. The report also makes reference to BRE 2011 Guidance and appears to consider separation distance from existing building for sunlighting, sunlight penetration to private amenity areas and presents shadow analysis drawings for March 22<sup>nd</sup> at 10 am, 1 pm and 4 pm. I will discuss the details of the report and the methodologies used further in this section.
- g. I note the criteria under section 3.2 of the Building Height Guidelines 2018 refer to '*quantitative performance approaches to daylight provision*' in BRE 209 and 'BS 8206-2: 2008 under the heading '*at the scale of the site/building*' and there is no reference to this criteria in respect of other headings. In terms of the criteria under 3.2, my understanding is that the primary requirement here is to ensure adequate daylight is to be provided for future residents within higher density schemes, in particular that the standards for 'Average Daylight Factor' for the proposed apartments are met.
- h. It is also clear that to me that 'appropriate and reasonable regard' is required, rather than an insistence that proposed developments strictly adhere to these '*approaches*'. The Apartment Guidelines also detail that regard should be had to 'daylight provision'. DCC's Development Plan requires development to be guided by the principles of BRE209. It is, therefore, important to note, that

section 1.6 of BRE 209 specifically details that the advice given is not mandatory and should not be seen as an instrument of planning policy.

- i. While the guidelines discussed above, appear to explicitly require '*appropriate and reasonable regard*' only in respect to 'Daylight Provision' for the proposed building/site, I note BRE209 also provides a number of other measures that contribute to assessing residential amenity concerns including loss of daylight to existing properties, provision of and loss of sunlight to amenity areas and provision of sunlight to interiors of existing properties. It is appropriate that these measures are also used for the consideration of related residential amenity concerns. Therefore, I have undertaken the relevant assessments in respect of properties in the immediate environs.

#### 8.6.3.1. **Average Daylight Factor**

- a. The Average Daylight Factor (ADF) relates to the quality of light proposed apartments receive. Appendix C of the BRE209 Guidelines sets out Interior Daylighting Recommendations and details minimum standards of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms in proposed developments. BS 8206-2 (now superseded by BS EN 17037: 2018 'Daylight in buildings'), and therefore BRE209, provides that where rooms are used for combined purposes e.g. kitchen and living rooms, the appropriate standard is the ADF that is highest for any of the uses. Thus, insofar as kitchens are combined with living rooms the appropriate ADF standard would be 2%.
- b. The Planning Authority, appellants and observers have raised no concerns in this regard. However as discussed above Ministerial Guidelines require '*appropriate and reasonable regard to*' and '*regard to*' quantitative performance approaches to daylight provision as outlined in guides like BRE 209 or BS 8206-2/ BS EN 17037'. The DCC Development Plan requires development to be '*guided by the principles*' of BRE 209.
- c. Page 26 of the 'Design Statement' for the original proposal provides a 'Light Analysis' assessment for Average Daylight Factor (ADF) for the original proposal. The submitted 'Further Information Schedule of Accommodation' does not provide any information in relation to ADF. I consider the 'Light

Analysis' submitted with the original application to be directly comparable and therefore acceptable to consider Daylight Provision for the proposal submitted at Additional Information Stage.

- d. The 'Light Analysis' assessment details the ADF received in all habitable rooms on the lower ground floor of the proposed development. No assessment is carried out on other floors as levels of daylight increase naturally as floor levels increase and the ground floor is deemed the worst case scenario. Based on the content of the 'Light Analysis' I consider reference to 'lower floor' and 'ground floor' to mean the lower residential ground floor in this context, which is identified as the 'first floor' in the drawings but is strictly speaking the second floor i.e. over 'ground floor' and 'mezzanine floor'. In this regard I again point to section 1.6 of BRE 209 specifically details that the advice given is not mandatory and the advice should not be seen as an instrument of planning policy and it is reasonable to consider ADF provision to the lowest residential floor only.
- e. The 'Light Analysis' details ADF has been calculated for the living space of a 'typical duplex unit' (i.e. apartments over two levels as proposed). It appears to show the combined living/kitchen space achieves between 1% and 8% ADF with a combined stated ADF of 3.75%. The analysis concludes that the proposed development achieves the recommended ADF levels in proposed habitable spaces.
- f. BRE209 recommends a minimum ADF of 2% for combined living and kitchen spaces. The reported 3.75% ADF is considerably higher than what is typically received for lower level apartments. However this must be taken into context where the lowest residential level of the proposed development equates to a typical second floor i.e. above the ground and mezzanine levels. The application does not provide an ADF for bedrooms which I note are located to the western elevation of the building. BRE recommends an ADF of 1% for bedrooms. I note a number of bedrooms have overlooking preventive measures in the form of perforated screens located outside the window. Such screens should allow for daylight penetration and are considered necessary overlooking and Islamic design features as discussed in section 8.6.2 paragraph 'j'. Should the Board consider perforated screens are not

appropriate, I note BRE209 section 5.3.4 details that '*frosted glass often has an overall transmittance similar to, or slightly less than clear glass*'. The Board could consider a condition replacing perforated screens with frosted glass. However, given the location of such windows where no other obstructions exist I consider it quite likely that the rooms will achieve an ADF of at least 1%.

- g. Having considered the above I am satisfied bedroom windows on the western elevation and located at a level equating to a typical second floor and above will achieve a minimum 1% ADF. I am satisfied that combined living and kitchen rooms to the eastern elevation located at a level equating to a typical second floor and above will achieve a minimum 2% ADF. Overall the proposed development would appear to comply with the requirements of BRE209 as regards to Average Daylight Factor.

#### 8.6.3.2. Daylight to Existing Properties

- a. Section 2.1.21 of BRE 209 details that obstructions (such as the proposed development) can limit access to light from the sky. This can have a negative impact to existing properties such as houses or apartments in the area. Figure 20 of BRE 209 provides a 'Decision Chart' or flow chart for considering diffuse daylight in existing buildings and the impact of proposed developments.
- b. The first measure recommended in this regard is if the new development is more than three times its height above the lowest window. If it is not, a check is required if the development subtends more than 25 degrees at lowest window as demonstrated in Figure 14 of BRE 209.
- c. The next recommended measure to assess is the level of skylight received to existing buildings. This is called the Vertical Sky Component or VSC209. BRE recommends that existing neighbouring properties should retain a VSC of at least 27%, or where it is less, to not be reduced by more than 0.8 times the former value (i.e. 20% of the baseline figure). This is to ensure that there is no perceptible reduction in daylight levels and that electric lighting will not be needed more of the time.

- d. The applicants do not appear to have carried out an assessment of diffuse light to existing buildings in the area and do not appear to have provided VSC values. I note concerns have been raised by an observer and owner of Apartment Number 5, The Warehouse to the north east of the application site.
- e. Having considered the context of the site and the surrounding buildings in the area I consider the only windows that directly face the proposed development as per Figure 14 of BRE 209 are those to the apartment building 'Liberty Court' directly opposite the site on Blackpitts and the window at the rear ground floor of No. 2 St. John's Terrace. I note the windows to apartments in the Warehouse as raised by an observer do not directly face the proposed development. As per BRE209 such windows are not deemed to warrant assessment in term of diffuse daylight to existing buildings.
- f. The applicants have submitted contiguous elevation drawing 14.170.FI.5001. Following the 'Decision Chart: diffuse daylight in existing buildings' in Figure 20 of BRE209 I estimate the rear elevation of No. 2 St . John Street is c. 21m from the proposed development. The proposed height directly opposite the rear elevation of No.2 is c.12m. The proposed development at its southern boundary is not more than three times its height form the rear of No. 2.
- g. The second step of the Figure 20 requires the angle from the centre of the window to the height of the proposed development to be calculated. This can be done using trigonometry (where I know the height and separation distance). I do not know what the height of the centre of the window is. BRE209 recommends a height of 1.6m for a floor to ceiling window or patio door. In the absence of detail on the window I consider this a reasonable figure to use to calculate the angle. I estimate the angle 1.6 above ground to the height of the proposed development to be c.26.3 degrees. The development therefore appear to subtend by more than 25 degrees the lower window on the rear elevation of No. 2 St Johns Terrace. Using a lower window height of 1m I also calculate an angle in excess of 25 degrees.
- h. I now intend to look at the impact between the proposed development and Liberty Court apartments. This building is directly opposite the site. Using the proposed 'Site Plan' 14.170.FI.1000 I note the two separation distances

provided- 18.5m and 18.3m. Using the elevation drawing 14.170.FI.3001 I shall use estimated heights based on the separation distances provided, both c. 20m. There are c. 12 windows on the ground floor of Liberty Court and again I consider a dimension of 1.6m to be a reasonable basis for estimating the centre point of these windows. Based on these figures I calculate the angle from the centre of the window to the height of the proposed development to be c. 44.9 degrees and 45.2 degrees. I acknowledge the proposed building has varying heights and setbacks. However it is clear to me that the proposed development significantly subtends by more than 25 degrees a number of the lower window on the front elevation of Liberty Court. Using a lower window height of 1m or higher figure of 2m I also calculate angles significantly in excess of 25 degrees.

- i. I note page 8 of the Daylight Sunlight Report submitted by the applicants states-

*BRE Guidance indicates that:-*

*An existing building will retain the opportunity for good daylight if there is no obstruction that would break an angle of 25<sup>0</sup> degrees measured at 2 metres above ground level. This applies to sloping ground relationships as well as level ground relationships.*

I have not been able to find this reference in BRE 209 and note sections 2.1.12 and 2.2.21 when referring to VSC specifically state '1.6m above the ground' and from the 'centre of the lowest window'. I have however, also assessed this on the basis of the centre of the windows at ground level in Liberty court being 2m and the angle still subtends greater than 25 degrees. I also did not observe any significant level difference during my site visits and note the contiguous elevation drawings would suggest there is no significant level difference between the site and Liberty Court.

- j. The next stage of the decision chart as set out in Figure 20 of BRE209 requires a measure for Vertical Sky Component (VSC) i.e. a measure of the level of skylight received to existing buildings. BRE209 recommends that

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<sup>2</sup> It is assumed this is a typing error and should read 25 degrees

existing neighbouring properties should retain a VSC of at least 27%, or where it is less, to not be reduced by more than 0.8 times the former value (i.e. 20% of the baseline figure). This is to ensure that there is no perceptible reduction in daylight levels and that electric lighting will not be needed more of the time. BRE209 details

- k. The documentation submitted with the application do not appear to have provided any information in relation to VSC values. Table F1 as set out in Appendix F of BRE209 is titled-

*‘Equivalent VSCs, spacing-to-height ratios and boundary parameters corresponding to particular obstruction angles between rows of buildings. (Heights and angles are usually relative to a point at the centre of a window, see Figure F2).’*

VSC values are clearly dependent on the angle from the centre of the window to the height of the proposed development. For existing windows in Liberty Court (dimensions detailed above) and to the rear of No.2 St John’s Terrace I have calculated these to be 44.9, 45.2 and 26.3 degrees. Having considered table F1, Figures F1 & F2 I am satisfied that the equivalent VSC to the lower floor windows in Liberty Court would be between 15% and 16%. The equivalent VSC to the rear of No. 2 St Johns Terrace is 27%.

- l. Based on these VSC values, Figure 20 indicates that daylighting is unlikely to be affected to the rear of No. 2 St Johns Terrace and I therefore consider no further daylight investigations are required to this property.
- m. It now needs to be determined if the impact of the proposed development reduces VSC below 0.8 times the previous value to Liberty Court. The ‘Existing Short Section and Long Section and Demolition’ drawing number 14.170.PD106 shows the highest point of the existing building at 10.8m and I scale a separation distance of c. 32m. This would suggest an existing angle of 16 degrees from the lower windows of Liberty Court to the ridge of the existing building. Using Table F1 suggests an existing VSC of c 32%. As per the Decision Chart- Figure 20 of BRE209 it appears that existing ground floor windows to Liberty Court would have their VSC reduced below 27% and the reduction would be significantly more than 0.8 times the value before.

- n. The final step in Figure 20 Decision Chart is to determine the impact of the development from within the existing rooms of the ground floor properties to Liberty Court. If the impact is less than 0.8 times the existing value then the proposal is considered to have a significant daylighting effect to existing windows. Section 2.2.8 of BRE209 describes this as the 'No sky line' and requires knowledge of the existing room layouts. BRE209 details for houses this includes living rooms, dining rooms and kitchens with bedrooms less important. The angle of 'no sky line' is demonstrated in Figure 15 and methods of calculation are provided in Appendix D of BRE209. It is not considered possible for me to carry out such calculation without knowledge of the existing rooms at ground floor to Liberty Court.
- o. In the absence of same, and based on the information on file and Figure 20: Decision Chart of BRE209 it is in my opinion reasonable to conclude the proposed development would be likely to have a significant impact on diffuse daylighting in existing ground floor properties to Liberty Court. I intend to consider the other measures for determining sunlight and daylight impacts before arriving at a final position on this consideration.

#### 8.6.3.3. Sunlight to Amenity Spaces of Existing Neighbouring Property

- a. Concerns relating to overshadowing and loss of light have been raised.
- b. Section 3.3 of BRE 209 considers the impact of development on sunlight to existing amenity spaces such as Gardens, Open Spaces, playing fields and playgrounds. Section 3.3.7 recommends that at least half of the amenity space should receive at least two hours of sunlight on March 21st (the Equinox) and in scenarios where detailed calculations cannot be carried out it is suggested that the centre of the area should receive at least two hours of sunlight on March 21st. Section 3.3.16 of BRE209 refers to particular spaces such as a school playground where usage may be at certain times of day or the year. This section advises '*it is instructive to plot shadows for those specific times*'.
- c. The applicants 'Daylight - Sunlight and Overshadowing Report' does not specifically deal with the impact of the development on existing neighbouring

amenity spaces. It does, however, conclude that the proposed development will increase overshadowing of the schools playground at its peak by 10% and this remains within the recommended threshold.

- d. The report provides shadow plots for March 22<sup>nd</sup> at 10am, 1 pm and 4pm with the biggest impact evident at 1 pm. It is unclear why March 22<sup>nd</sup> was selected given that BRE recommends March 21<sup>st</sup>. However I do not consider the choice of this date to have a material impact on the assessment. In my opinion, having reviewed the shadow plot drawings, the extent of the overshadowing impact would not be significant in the context of the usage of the playground over the course of a typical school day and year.
- e. The report does not assess other private amenity spaces. In this regard I note the proximity of the proposal to private amenity spaces of No. 24 Blackpitts, No 2 St. Johns Terrace and No's 3 and 4 St. Michaels Terrace.
- f. I have considered the submitted Shadow Analysis of the development, the orientation of the spaces and in particular the existing enclosed nature of the spaces to No. 3 and 4 St Michael's Terrace. In my opinion the proposal will not have a significant impact upon the amount of sunlight to the identified existing private amenity spaces or to any other such spaces in the area.

#### 8.6.3.4. Sunlight to Interiors of Existing properties

- a. Section 3.2 of BRE209 provides guidance in relation to safeguarding access of sunlight to interiors of existing dwellings. Summary box 3.2.11 states-  
*'If a living room of an existing dwelling has a main window facing within 90 degrees of due south and any part of a new development subtends an angle of more than 25 degrees to the horizontal measured from the centre of the window in a vertical section perpendicular to the window, then the sunlighting of the existing dwelling may be adversely affected.'*
- b. The applicants 'Daylight - Sunlight and Overshadowing Report' does not appear to address sunlight to interiors of existing properties.
- c. Having assessed the properties in the area I note the apartments at Liberty Court opposite the site are orientated slightly north west. None of the windows on the front elevation are orientated within 90 degrees of due south and as

such do not meet the first test of section 3.2.11. Houses No. 24 Blackpitts, No's 2-10 St John Street and No's 1-3 all have front elevation or rear elevation windows over two floors generally orientated south and the proposed development will not obstruct this orientation.

- d. The proposed development will protrude past the southerly orientation of houses on St Michaels Terrace and would be within 90 degrees of due south. However when the second test detailed in section 3.2.11 is considered, I note the orientation of the front elevation windows of these houses would not be obstructed by the new development i.e. the plane of these windows are orientated so the angle would not meet the new development.
- e. I note concerns of a resident of a lower floor apartment in The Warehouse to the North east of the application site in relation to overshadowing and loss of light impacts. In my opinion the loss of sunlight to these apartments is also worth consideration. The proposed development will be located within 90 degrees due south of this apartment block. However it is clear that all windows to the front of the Warehouse Apartment building face west and this orientation will not be obstructed by the proposed development as per the second test of section 3.2.11 of BRE209.
- f. I am satisfied that the proposed development will not adversely impact upon sunlight to the interiors of existing properties in the area.

#### 8.6.3.5. **Sunlight to Proposed Communal and Private Amenity Spaces**

- a. Section 4.11 of the 2020 Apartment Guidelines states-

*Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year.*

- b. Section 3.3.7 of BRE 209 recommends that at least half of (listed) gardens and open spaces should receive at least two hours of sunlight on March 21<sup>st</sup> (the Equinox).
- c. The applicants 'Daylight - Sunlight and Overshadowing Report' does not appear to address the impact of sunlight to proposed communal terraces or private balconies. The application proposes-

- 2 no. external terraces at second floor level
- 2 no. external terraces at fourth floor level
- 2 no. external terraces at fifth floor level and
- 2 communal balcony areas off the communal rooms at second and fourth floors
- A number of private southeast facing balconies to the front elevation

It must be noted references to floors above also include two lower floors at ground level and mezzanine level. In effect the second floor equates to a typical third floor. These spaces are to include privacy walls of 1.65m as overlooking prevention measures. As detailed in section 8.6.2 above it is recommended these walls be increased to 1.8m.

- d. I note all private balconies are located to the south east elevation. However all of these are located from the first floor to the fourth floor which equates typical second and fifth floors.
- e. Notwithstanding the absence of an assessment of sunlight to proposed amenity spaces by the applicants, in my opinion, having considered their location (generally at roof levels), heights and orientation, the proposed amenity spaces will receive sufficient sunlight. I have also had regard to the impact of raising privacy wall heights which I consider will be negligible.

#### 8.6.3.6. **Conclusion**

- a. The applicants have proposed a building that is significantly higher than the existing building on site and of other buildings in the area. Daylight and Sunlight concerns relating to residential amenity of existing properties in the area and the proposed development are reasonable and understandable in this context.
- b. The 2018 Urban Building Height and 2020 Apartment Ministerial Guidelines generally seek '*appropriate and reasonable regard*' to the quantitative performance approaches to daylight provision outlined in guides like BRE 209 and 'BS 8206-2: 2008. They make no such provision for other Daylight Sunlight impacts other than the Urban Building Guidelines which details

design in the context of the site itself should minimise overshadowing and loss of light.

- c. The DCC Development Plan details that development shall be guided by the principles of Site Layout Planning for Daylight and Sunlight (BRE209) but this would also appear to be in the context of Daylight Provision to the proposed development.
- d. Notwithstanding this, I am satisfied the other measures to protect against the daylight and sunlight impacts of development as set out in BRE209 and BS 8206-2 2008 (superseded by BS EN 17039:2018 Daylight in Buildings) are appropriate performance measures for considering residential amenity impacts.
- e. The Daylight – Sunlight Report submitted by the applicant is, in my opinion, limited in a number of perspectives as detailed above. In particular the absence of an adequate assessment of diffuse daylight on adjoining properties is unusual considering the height of the proposal.
- f. Notwithstanding this, and having carried out my own assessment based on the information submitted, it is my view that the proposed development would significantly affect the diffusion of daylight to existing lower floor apartments in Liberty Court opposite the site as per the provisions of BRE209. I have estimated the Vertical Sky Component (VSC) to these ground floor windows to be c. 15-16% and this would be significantly less than 0.8 times the existing values or the recommended VSC of 27%.
- g. Appendix F of BRE209 appears to acknowledge that a recommended VSC value of 27% is not an appropriate target value in all contexts. Appendix F discusses setting alternative targets and paragraph F4 details that for a mews in a historic city centre a typical VSC could be 18%. Section 1.6 of BRE details in special circumstances different target values maybe used for example historic city centres or areas with modern high rise buildings.
- h. The site is located within the Inner City and the identified Zone of Archaeological Interest on the Development Plan. In this regard it is reasonable to consider it a 'historic city centre' location.

- i. Section 1.10 of the Urban Building Height Guidelines details that within the canal ring in Dublin it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective. 6 storeys would clearly impact higher than typical Mews (as described in F1 of BRE209) Allowing for the 'mezzanine level' the proposed development can be described as seven storey, however it must be noted that it does comply with the 24m high building height restriction detailed in section 16.7.2 of the Development Plan.
- j. In this context, and in my opinion, to insist on a VSC of 27% or one at least 0.8 times its previous VSC is not reasonable. Instead it is appropriate for alternative lower values to be considered in accordance with Appendix F. An alternative value of 15-16% is in my opinion acceptable given the Inner City Location within Dublin's canal ring.
- k. Having considered the other measures to protect against the daylight and sunlight impacts of development as described above, I am satisfied that the proposed development will not detract significantly from residential and other amenity.
- l. The site is located in Dublin's Inner City and is in need of regeneration. It is served by existing public services and is in close proximity to public transport. The site is zoned Z15 in the Dublin City Development Plan 2016-2022 which provides for both proposed uses. Having considered the other relevant provisions of the Development Plan, the NPF and in particular the 2020 Apartment Guidelines and the 2018 Urban Development and Building Heights Guidelines, I am satisfied the proposed development would strike an appropriate balance between necessary urban development in terms of height, design, streetscape and in order to protect residential and other amenities of nearby properties in the context of the subject site.

#### 8.6.4. **Overbearing**

- As discussed in Section 8.3 the Planning Authority requested Information in relation to the impact of overbearing from the proposed development on the

adjoining two storey housing to the south having regard to the overall height of the development and its transition in scale.

- The applicants submitted a revised proposal whereby they omitted one of the lower floors with the development reducing in height and the number of apartments proposed from 27 to 20. The extent of the revisions is also shown in CGI's submitted with the Additional Information.
- The building design reflects 'Ziggurat' architectural features with each floor receding in a pyramidal style with a centre most high point. The proposal is a unique building design for this area and is reflective of its use. It creates a stepped and upward transition from the predominant two storey style development to the south before less of a transition down to its northern boundary where the proposal does not adjoin another building.
- In my opinion the development as revised at Additional Information stage creates an appropriate transition in height and its upper floors are adequately set back from the adjoining two storey house to the south in the context of an Inner City site, and as such would not appear visually dominant or overbearing to it or other properties in the area.

#### **8.6.5. Opening of Fire Exit door onto St. Michaels Terrace**

- The Proposed Mezzanine Floor Plan Drawing no. 14.170.FI.2003 shows a 'Fire Exit' to the western side of the site in the existing boundary wall that adjoins St Michaels Terrace which appears to be a public road.
- Appellant and observers to the file have raised residential amenity concerns in this regard and also identify the wall as a shared boundary to which the developer does not have consent to carry out the works.
- The matters relating to the ownership of the boundary wall are civil issues as per Section 5.13 of the Development Management Guidelines and as such are not ones for the Board to be concerned with. The applicants must have the separate legal entitlement to carry out such works.

- Having assessed a number of the floor plan drawings it would appear the applicants have knowingly identified the subject boundary wall as outside of the application site boundary i.e. outside the red line.
- The opening of most entrance/exit types onto a public road generally requires planning permission. The applicants have not included for an entrance of this type in the development description and therefore in my opinion it should not be considered as part of this application.
- Generally speaking, and from a planning point of view, I have no concerns in relation to opening a 'Fire Exit' door at this location. I do not consider the use of such a door would impact significantly on residential amenity or road safety given its location at the end of a cul de sac.
- I am aware that-

*'Works consisting of or incidental to.....the carrying out of development in compliance with a condition or conditions attached to a fire safety certificate granted in accordance with Part III of the Building Control Regulations, 1997 other than the construction or erection of an external fire escape or water tank'*

are generally considered exempted development in accordance with Class 41 (e) of Schedule 2, Part 1 of the Planning and Development Regulations 2001-21 (as amended). Notwithstanding the fact this door is not included for in the development description or within the redline boundary, to specifically omit this 'Fire Exit' door by condition could create a scenario where the proposed development cannot comply with other regulatory codes including fire safety. The applicants ability to avail of the exemption would be restricted by virtue of the '*restrictions on exemptions*' as set out in Article 9 (1) (a) (i) . Therefore the development could potentially not comply with the appropriate other codes.

- However, in the interest of clarity should the Board decide to grant permission I recommend the addition of a condition that details the opening of the entrance to St Michaels Terrace as shown in drawing no. 14.170.FI.2003 is not permitted by this grant of permission rather than omitting the specific door. The wording should also detail that this does condition does not prejudice the applicants entitlements to avail of an exemption under Class 41.

- Notwithstanding this exemption, the applicants would still be required to have the legal entitlement to take up the exemption.

#### **8.6.6. Devaluation of Property**

- a. I note the concerns raised in the observations to the appeal in respect of the devaluation of neighbouring property. However, having regard to the matters addressed in this assessment, it is my opinion that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

### **8.7. Transport Related Issues**

- 8.7.1. The appellants and observers have raised significant traffic related concerns that generally relate to vehicular movements associated with the operations of the existing and permitted Mosque. In particular traffic congestion and illegal parking are highlighted. It is also argued that the provision of apartments will exacerbate the traffic issues in the area. Concerns are also raised in relation to the submitted Traffic and Transport Statement with concerns about the use of TRICS database and the timing of the application given the impact of Covid 19 Lockdowns on traffic.

#### **8.7.1.1. Traffic and Transport Statement**

- a) Table 2.1 of Transport Infrastructure Ireland's Traffic and Transport Assessment Guidelines 2014 details Traffic Management Guidelines Thresholds For Transport Assessments. This aligns with the requirements of DCC Development Plan Appendix 4, section 4.1.3. Appendix 4 of the Development Plan deals with Transport Assessments, Mobility Management and Travel Plan.
- b) Section 4.1.1 details that the traditional function of a Traffic Impact Assessment is to assess the nature and extent of the impact of any substantial development on the immediate and surrounding road network and, if deemed necessary, on the wider transportation system.
- c) I have reviewed the Traffic and Transport Statement submitted with the application. I note it has estimated travel demand by mode type for Friday

afternoons using the TRICS database and the provision of no car parking for the apartments. Transport Infrastructure Ireland's Traffic and Transport Assessment Guidelines 2014 describes TRICS as a database containing empirically obtained trip generation data for a wide range of different types of developments. The Guidelines recommend it as suitable for trip generation although it must be demonstrated that the survey sites selected are compatible with Irish conditions.

- d) The Traffic and Transport Statement does not clearly detail why they have chosen Bromley and Hounslow in London. However, I note it is based on Mosques ranging in floor area from 650 to 1000 sq.m, sited in town and neighbourhood centre locations with sub categories of Residential and Built up zones. I consider the use of this database as reasonable in the context of the proposed development.
- e) Overall and in the context of the existing and permitted Mosque development at the site, I am satisfied the Traffic and Transport Statement is a reasonable examination of the traffic related impacts of the subject development. It concludes the proposal will have a negligible impact upon the continued operation of surrounding road network and will not have an adverse impact in terms of carrying capacity or safety.
- f) The appellants and observers have raised traffic congestion concerns and refer to the impact of car parking associated with the existing Mosque development and the associated demands of the neighbouring school.
- g) It is clear the proposed Mosque does not provide for any intensification of use over the existing permitted Mosque. As discussed in section 8.2 above, the maximum attendees will be 500 and the hours of operation are the same as those permitted under 2033/11. The application clearly does not propose increasing these significant usage factors. The provision of 20 apartments with no parking will not in my opinion, further intensify the demand. I also note that users/visitors to the Mosque and apartments are entitled to avail of public pay and display car parking in the area. In this context I am satisfied the proposed development in operation, will not create additional traffic congestion, a traffic hazard or endanger road safety.

- h) I accept that the nature and times permitted for the Mosque use could conflict with peak school hours where traffic congestion can occur at certain times of the day. In this regard I note the applicants have submitted a Preliminary Travel Plan/Mobility Management Plan to promote and improve alternative modes of transport to and from the site over the private car. DCC have attached a condition seeking the submission of a Mobility Management Plan and Residential Travel Plan to be agreed.
- i) Should the Board decide to grant permission, I recommend a condition be attached for the applicants to provide a Mobility Management Plan to encourage and promote sustainable transport to and from the development. The condition should specifically seek measures where possible to discourage the use of the car around peak hours associated with the school.

#### 8.7.1.2. Residential Car Parking

- a) Section 8 of the Planning Report submitted with the application refers to the 2018 Apartment Guidelines and quotes the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The report also refers to the proximity of bus services and the site's walking distance to the city centre. This application proposes no car parking to serve the 20 apartments.
- b) Section 5 of the Planning Report- Mosque Operations details the site's inner city location adjacent to a range of bus routes on Clanbrassil Street. It details that it is expected 90% of persons using the premises are local and would walk to the premises. Car users would be expected to avail of pay and display parking in the area. The report states this has been adequate for the needs of those using the facility.
- c) I have considered the provisions of section 4.19 of the 2020 Apartment Guidelines. It is clear that for larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances.

- d) I note this default policy refers to develops 'wholly' of apartments. However the proposed Mosque Development is clearly identified as replacing the existing permitted development on site with no intensification in use or operating hours over that permitted under 2033/11.
- e) The site is located in very close proximity to public transport and the city centre. In this context I consider the provision of no car parking spaces for the apartment element of the development to be acceptable, appropriate and in accordance with the 2020 Guidelines.

#### 8.7.1.3. **Mosque related Car Parking**

- a) I note the significant existing car parking concerns of the appellants and observers which generally relate to the existing use of the site. A number of pictures and a time lapse video of cars parking in the area have been submitted in support of the concerns raised in relation to parking associated with the use.
- b) I do not intend to dispute these allegations. However it is clear to me that the proposed Mosque Development is intended to replace the existing and permitted development under 2033/11. This application does not propose to intensify that permitted use and does not provide for additional attendees or additional hours of operation of the use. It simply proposes to replace the existing structure with a more appropriate structure for the use.
- c) Having inspected the site I noted the provision of public pay and display parking in the area and users of the Mosque are entitled to avail of these if they are available. In my opinion, illegal parking is not a matter for the Board to be concerned with. Instead these are matters for the Parking Enforcement section of Dublin City Council and/or the Gardai.

#### 8.7.1.4. **Cycle Parking**

- a) 'Further Information Schedule of Accommodation' Section 5- Bicycle Parking Schedule indicates that the proposal will provide 38 cycle parking spaces i.e. 1 per bedroom and 10 visitor spaces giving a total of 48 for the apartments. This is in accordance with section 4.17 of the Apartment Guidelines which

details a general minimum standard of 1 cycle storage space per bedroom and 1 space per 2 residential units for visitors.

- b) Table 16.2 of the DCC Development Plan sets out Cycle Parking Standards for Various Land-Uses and requires 5 per 100 seats for Churches, Theatres, Halls, Cinemas, Multiplex Cinemas. Further Information Schedule of Accommodation Section 5- Bicycle Parking Schedule proposes 26 spaces (5 spaces per 100 users). This complies with the Development Plan requirements of 25 based on the proposed 500 users. In my opinion this provision is low particularly in a context where no car parking is provided. However this is the standard and DCC have raised no such concerns.
- c) Between the standards for apartments set out in the Guidelines and the standards of the Development Plan for the Mosque there is a requirement for 73 cycle spaces.
- d) Condition 12 c) of the Planning Authority's decision to grant permission seeks 49 resident cycle spaces, 16 spaces for exclusive use of the Mosque and 8 visitor cycle spaces. 12 b) seeks the location of visitor cycling to be reviewed as it appears to overhang public property.
- e) Having reviewed the submitted drawings I note that 48 spaces are shown as provided in the Basement, 6 spaces are proposed to the north of the apartment entrance along the public path and 10 are proposed to the south west of the site to the rear of the Riwaq (Arcade) area. The drawings states 20 in this bike store but show room for only 10. In total the drawings appear to show 64 cycle spaces which is below the total requirement for 73 spaces. It would appear the applicants intentions in relation to cycle parking have not translated to the drawings and in my opinion there is no justification for a lower provision of cycle spaces in this context.
- f) The basement area of the proposed development provides for 177 sq.m of storage. This storage is separate to that attributed to the apartments in the basement. It is considered that this space can be reconfigured to provide additional cycle parking. It is recommended that this should be addressed by way of condition should the Board decide to grant permission. Cycle parking should be allocated completely within the site boundaries and as follows-

- 38 for residents of the apartments,
- 10 for visitors to the apartments and
- 25 dedicated for exclusive use of the Mosque.

#### 8.7.1.5. Deliveries and Servicing

- a) The application does not provide a set down area to facilitate deliveries, servicing and waste collections etc to the proposed development.
- b) In section 4.0 of the Traffic and Transport Statement the applicants detail the proposal should be considered in the context of the current and permitted use of the site and adjoining sites where deliveries are made mainly at off-peak times in the Dublin City area. Such trips to the Mosque are likely to be made once a week by transit vans and short wheel base trucks. HGV's would never be expected.
- c) DCC's Transportation Planning Division's first report (08/07/20) identifies that the Traffic and Transport Statement does not indicate where the once a week delivery van is proposed to set down. However, it is considered that such vehicle trips will be low and there are existing pay & display and informal street parking in the area can facilitate the development.
- d) I note Condition 12 b) requires revised drawings to include measures such as bollards to discourage car parking to the front of the proposed development.
- e) DCC's Transportation Report and the applicants Traffic and Transport Statement do not appear to have considered requirements for deliveries and servicing to the residential element of the development which may be more frequent than the Mosque element.
- f) Having visited the site, I observed the availability of public parking in the immediate area that could facilitate deliveries and servicing. I also consider it logical that services and deliveries to the Mosque would not be scheduled to conflict with busy usage times as suggested by the applicants. However, in my opinion, the provision of 20 apartments is likely to increase the demand for a set down in the area although not to any great extent that would impact other transport and traffic considerations.

- g) I have visited the site and examined the drawing submitted at Additional Information stage i.e. the 'site plan' 14.170.FI.1000 and 'site plan taking in charge' 14.170.FI.1001 as well as DCC's condition 12 b). In my view the depth of the public path and the private landholding to the front of the building may be wide enough to facilitate the provision of a set down area and a public path to meet the servicing and deliveries need of the proposed development. As this would require revisions to public property including the footpath it would require the agreement of the Planning Authority.
- h) Accordingly should permission be granted I recommend a condition be attached seeking the provision of a set down area to the agreement of the Planning Authority. The area shall facilitate servicing, delivery and emergency vehicles as well as doubling as a waste marshalling area as required. Regular car parking shall be restricted and the area shall be managed by the Management Company.

#### 8.7.1.6. **Conclusion**

Overall, I am satisfied that the provision of no parking for the proposed development is in accordance with the 2020 Apartment Guidelines and the proposed Mosque development is in keeping with the existing permitted Mosque in terms of attendees and hours of operation. Subject to conditions the proposed development will not create additional traffic congestion, a traffic hazard or endanger public safety.

### 8.8. **Other Matters**

#### 8.8.1.1. **Noise**

- a) Significant concerns have been raised by an appellant in relation to the proximity of the site to a school with an Autism Spectrum Disorder Unit. In particular noise concerns during the construction stage on students with sensory needs are highlighted.
- b) The site is an Inner City location and suitable for appropriate development and regeneration. Unfortunately noise is a consequence of the construction stage of any development. Notwithstanding this, I acknowledge the reasonable and understandable concerns of the appellants. However such

concerns should also be balanced against the needs of other noise sensitive locations and the ability of the developer to complete the development in a reasonable fashion.

- c) Dublin City Council have attached a standard noise condition and standard hours of operation condition to their grant of permission.
- d) In my opinion the proximity of the site to a school and in particular one with an Autism Spectrum Disorder Unit is not a typical situation. Operations of a school are generally during the hours for site development and building works permitted by planning conditions.
- e) In my opinion, it reasonable to seek appropriate mitigation measures to address noise sensitive locations such as the nearby school. Furthermore, I note conditions specifying hours of operations for site development and building works facilitate deviations in exceptional circumstances which could include provisions such as the needs of the school. This would have to be balanced with other noise sensitive locations such as residential properties in the area.
- f) Should the Board decide to grant permission I am satisfied that such balance can be achieved and managed through conditions, including the provisions of the Construction Management Plan and deviations from the hours of operation. It is recommended such measures should be agreed with the Planning Authority.

#### 8.8.1.2. **Community Use**

- a) One appellant has raised concerns suggesting the proposal would allow a segregated, single culture accommodation block that would create a precedent of an isolated 'compound' that may alienate new tenants from local residents and vice versa.
- b) One observer has also raised concerns that the proposal would impact potential community use of the site, the absence of a Community Need Assessment and as a result commercial housing is a material contravention of the Development Plan.

- c) I do not believe the proposed development would create a 'block' or 'compound' as described. The proposal would instead, create a unique new building, reflective of its use that presents positively to the streetscape. It would provide an amenable and aesthetically pleasing built environment that improves the streetscape along this section of Blackpitts. The proposal represents a significant improvement to the visual appearance of the existing building on site which in my opinion is more akin in appearance to a 'block' or 'compound' with its high wall enclosures to the public street.
- d) In my opinion, the nature of 'Places of Worship' are generally open to all and would contribute positively to local communities. I see no reason how the proposed development would alienate new tenants from local residents and vice versa.
- e) Having considered the sites location in the Inner City, I do not consider there to be a need for a Community Need Assessment in this context. Furthermore, I note the proposed development will actually increase the number of suitable uses on the site and is in accordance with the Z15 zoning objective.

#### 8.8.1.3. **Structural Integrity**

- a) I acknowledge concerns set out by observers in relation to works adjoining property outside of the applicants control and potential structural integrity concerns.
- b) Works that take place in accordance with planning permission that impact upon or damage property outside the control of the applicant i.e. the red line in this instance are generally civil matters. In my opinion they are therefore not ones that the Board can pre-empt or adjudicate over.
- c) However, to ensure the applicants are endeavouring to avoid such impacts it is considered appropriate to include for monitoring of structural stability of adjoining properties as part of the Construction Management Plan. This can be addressed through condition.

#### 8.8.1.4. **Protected Structure**

- a) The site is located c. 80m south east of Buildings identified on Dublin City Council Record of Protected Structures (i.e. RPS Ref No. 8222- Presentation Convent: original Warrenmount House and other buildings). I do not consider the proposed development, including overshadowing from it, will have a negative impact upon the character or integrity of RPS Ref No 8222 and its curtilage.

#### **8.8.1.5. Accuracy of Drawings, Reports and Discrepancies**

- a) I note some concerns have been raised in relation to the accuracy of drawings, reports and other discrepancies.
- b) Dublin City Council have validated the application in accordance with the Planning and Development Regulations 2001 as amended.
- c) I have reviewed all of the information submitted with the application and on the file. I have not identified any significant departures from the legislative requirements. I am satisfied the drawings and particulars provide a reasonable basis for this assessment.

### **8.9. Appropriate Assessment**

#### **8.9.1. Stage 1 Screening**

- a) A screening report for Appropriate Assessment was submitted with this application compiled by Simon Clear & Associate Planning Consultants.
- b) The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on European sites. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on such European Sites.

#### **8.9.2. The Proposed Development and Receiving Environment**

The proposed development comprises of the construction of a mixed use development of a 20 apartments and a Mosque and 20 overhead apartments. The site is not located within or adjoining a designated European site.

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

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

### 8.9.3. European Sites

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

Table 1-

Site Name & Code	Qualifying Interest / Special Conservation Interest	Distance
South Dublin Bay SAC [000210]	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	c. 4.5km to the east
North Dublin Bay SAC [000206]	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows [1330] Mediterranean salt meadows [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with marram grass <i>Ammophila arenaria</i> (white dunes) [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalwort <i>Petalophyllum ralfsii</i> [1395]	c. 7.5km to the north east

<p>South Dublin Bay and River Tolka Estuary SPA [004024]</p>	<p>Light-bellied Brent goose <i>Branta bernicla hrota</i> [A046]  Oystercatcher <i>Haematopus ostralegus</i> [A130]  Ringed plover <i>Charadrius hiaticula</i> [A137]  Grey plover <i>Pluvialis squatarola</i> [A141]  Knot <i>Calidris canutus</i> [A143]  Sanderling <i>Calidris alba</i> [A149]  Dunlin <i>Calidris alpina</i> [A149]  Bar-tailed godwit <i>Limosa lapponica</i> [A157]  Redshank <i>Tringa totanus</i> [A162]  Black-headed gull <i>Chroicocephalus ridibundus</i> [A179]  Roseate Tern <i>Sterna dougallii</i> [A192]  Common Tern <i>Sterna hirundo</i> [A193]  Arctic Tern <i>Sterna paradisaea</i> [A194]  Wetland and waterbirds [A999]</p>	<p>c. 4.5 km to the east</p>
<p>North Bull Island SPA [004006]</p>	<p>Light-bellied Brent Goose <i>Branta bernicla hrota</i> [A046]  Shelduck <i>Tadorna</i> [A048]  Teal <i>Anas crecca</i> [A052]  Pintail <i>Anas acuta</i> [A054]  Shoveler <i>Anas clypeata</i> [A056]  Oystercatcher <i>Haematopus ostralegus</i> [A130]  Golden Plover <i>Pluvialis apricaria</i> [A140]  Grey Plover <i>Pluvialis squatarola</i> [A141]  Knot <i>Calidris canutus</i> [A143]  Sanderling <i>Calidris alba</i> [A144]  Dunlin <i>Calidris alpina</i> [A149]  Black-tailed Godwit <i>Limosa</i> [A156]  Bar-tailed Godwit <i>Limosa lapponica</i> [A157]  Curlew <i>Numenius arquata</i> [A160]  Redshank <i>Tringa totanus</i> [A162]  Turnstone <i>Arenaria interpres</i> [A169]  Black-headed Gull <i>Chroicocephalus ridibundus</i> [A179]  Wetland and Waterbirds [A999]</p>	<p>c. 7.5 km to the north east</p>

I am satisfied that other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site, the extent of marine waters or given the absence of any direct hydrological or other pathway to the appeal site.

#### **8.9.4. Test of Likely Significant Effects**

The project is not directly connected to or necessary to the management of any European site. The proposed development is examined in relation to any possible interaction with European sites to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

Based on the source-pathway-receptor model, I am not aware of any hydrological connections directly to European Sites close to the application site. The site is surrounded by existing urban development and I am satisfied that significant effects from the development would not be likely in this context as there are no obvious direct pathways to European Sites.

#### **8.9.5. Potential Effects**

Having regard to the urban context and the nature of the proposed development, I consider that the only potential pathways between the appeal site (source) and the European sites (receptors) would relate to drainage during construction and operation. I consider standard construction methods would generally be sufficient to address these considerations during both the construction and operational phase.

Due to the nature of the application site and the proposed development, there is a potential indirect pathway to coastal SACs and SPAs via surface and foul drainage networks and Ringsend WWTP.

The Drainage Design Report submitted with the application details proposals for surface water drainage and to utilise Sustainable Urban Drainage Systems (SUDs) including attenuation and green/sedum roofs, therefore I consider there will be no adverse change to the quantity or quality of surface water leaving the site.

All foul water from the proposed development would be discharged via the public system with discharge to the Ringsend Wastewater Treatment Plant (WWTP).

Permission has been granted (ABP Ref. 301798-18) for works that would increase the capacity of the plant. I note there is evidence to suggest that some nutrient enrichment is benefiting winter birds for which the SPAs have been designated in Dublin Bay (Nairn & O' Halloran eds, 2012). Increased flows from this project to Ringsend WWTP, individually or cumulatively are not likely to have a significant impact on European sites.

I consider that the distances are such that any pollutants in discharge post treatment from the Ringsend WWTP would be minimal and would be sufficiently diluted and dispersed. Therefore, there is no likelihood that pollutants arising from the proposed development, either during construction or operation, could reach the designated sites in sufficient concentrations to have any likely significant effects on the designated sites in view of their qualifying interests and conservation objectives.

#### 8.9.6. **In-combination Impacts**

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

#### 8.9.7. **Conclusion**

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

- South Dublin Bay and River Tolka Estuary SPA (Site Code: 004024),
- South Dublin Bay SAC (Site Code: 000210),
- North Bull Island SPA (Site Code: 004006) and
- North Dublin Bay SAC (Site Code: 000206),
- or any other European sites, in light of the sites' Conservation Objectives', and a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not therefore required.

In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

## 9.0 Recommendation

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

## 10.0 Reasons and Considerations

Having regard to the provisions of-

- the National Planning Framework and in particular National Policy Objectives 11, 13 and 35,
- the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (DHLGH, 2020),
- the Urban Development and Building Heights Guidelines for Planning Authorities (DHPLG, 2018) and in particular Specific Planning Policy Requirement 3A
- the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) Sustainable Residential Development in Urban Areas Guidelines (DEHLG, 2009)
- and the provisions of the Dublin City Development Plan 2016 - 2022,

it is considered that, having regard to permitted development on the site, the nature of development in the area, the site's Inner City location, the site's close proximity to existing public transport links and subject to compliance with the conditions set out below, the proposed development, would represent an acceptable height, density and design for the site, would be acceptable in terms of the amenities of adjoining properties, would not seriously injure the visual amenities of the area and would be acceptable in terms of traffic and road safety. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 27<sup>th</sup> day of November 2020 and by the

further plans and particulars received by An Bord Pleanála on the 26<sup>th</sup> day of February, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
  - (a) All walls to communal and private terraces shall have a minimum height of 1.8m.
  - (b) A 1.8m high obscure screen, or as otherwise agreed shall be provided to the side and between all private amenity space balconies
  - (c) The office and storage rooms in apartments 12 and 18 shall not be used as habitable rooms e.g. bedrooms, save for the granting of a subsequent permission for such usage.
  - (d) A minimum 73 bicycle parking spaces shall be provided within the application site boundary and as follows-
    - a. 38 for the apartments (one per bedroom),
    - b. 10 Visitor Spaces and
    - c. 25 spaces exclusively for users of the Mosque
  - (e) A vehicle set down area shall be provided to the front of the proposed development to facilitate vehicles for servicing, deliveries, emergency and waste collections unless otherwise agreed with the Planning Authority. The set down area shall not facilitate private car parking at any time.
  - (f) Measures to restrict car parking to the front of the site shall be submitted (save for the set down area in (e)).
  - (g) The fire exit door on the rear elevation opening onto St Michael's Terrace as shown in Drawing No. 14.170.FI.2003 is not permitted by this Order.

This does not prejudice exempted development provisions of class 41 (e) of Schedule 2, Part 1 of the Planning and Development Regulations 2001-21 (as amended).

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

Reason: In the interest of residential amenity and clarity

3. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
  - a. notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - b. employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- i. the nature and location of archaeological material on the site, and
- ii. the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation and foundation layout) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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

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

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

Reason: In the interest of visual amenity.

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

Reason: In the interest of orderly development.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, the content of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- a. Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b. Location of areas for construction site offices and staff facilities;

- c. Details of site security fencing and hoardings;
- d. Details of on-site car parking facilities for site workers during the course of construction;
- e. Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f. Measures to obviate queuing of construction traffic on the adjoining road network;
- g. Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h. Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i. Details of appropriate mitigation measures for noise, dust, vibration and structural stability of adjoining property and monitoring of same. Noise mitigation measures shall include-
  - (i) Identification and agreement of noise sensitive locations including schools
  - (ii) advanced notice of significant noise generating activities to noise sensitive locations
  - (iii) timing of significant noise generating activities outside of schools hours where possible and
  - (iv) details of a dedicated noise liaison person who shall be responsible for all necessary consultations with identified noise sensitive locations.
- j. Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k. Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

- I. Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A 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 amenities, public health and safety.

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

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

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

Reason: In the interest of public health

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

Reason: In the interest of public health.

11. Proposals for the development/estate name and apartment numbering scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the development/estate name and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to

the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

12. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, all internal common areas open spaces, landscaping, paths, vehicle set down areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the development is made available for occupation and operation.

Reason: To provide for the future maintenance of this [private] development in the interest of residential amenity and orderly development.

13. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff, users and residents of the development and to reduce the extent of parking associated with the development in the area. The strategy should provide measures, where possible, to discourage the use of the private car by visitors to and from the site at peak school hours. The strategy shall be prepared and implemented in perpetuity by the management company for the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

14. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of

facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment and the Mosque shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

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

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

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

or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

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

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

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Adrian Ormsby  
Planning Inspector

15<sup>th</sup> of September 2021