



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309368-21

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<b>Development</b>	Construction of a 6 storey apartment block comprising of 25 residential units.
<b>Location</b>	Site of 0.156 hectares to the south-east of The Sheldon Park Hotel, along Old Naas Road, Bluebell, Dublin 12.
<b>Planning Authority</b>	Dublin City Council South
<b>Planning Authority Reg. Ref.</b>	3680/20
<b>Applicant(s)</b>	Arcourt Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Arcourt Limited
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30 <sup>th</sup> of April 2021.
<b>Inspector</b>	Adrian Ormsby

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## 1.0 Site Location and Description

- 1.1. The site is c. 6km south west of Dublin City Centre on a parcel of land along the Old Naas Road, Bluebell, Dublin 12. The site is c.70m east of the junction of the Old Naas Road and the Kylemore Road (R112).
- 1.2. The application site has a stated area of 0.156 ha and forms the eastern most part of a significant residential development that is already under construction and permitted under planning applications 4637/18 and 2158/17 (amongst others). The existing development is two eight blocks that runs from the western boundary of the site to the junction with the Kylemore Road where it wraps around the junction up to its northern boundary with the Sheldon Park Hotel. The eastern most gable of the existing building which is closest to existing houses appears to have a blank elevation which presents a poor elevation and design feature to the public realm and neighbouring residential properties.
- 1.3. The application site is hoarded to the Old Naas Road and includes an existing single storey semi-detached house No. 8. It's 'paired' house No. 7, does not form part of the application site and benefits from a small area of private open space to its rear. Existing houses number 1-8 Old Naas Road are four pairs of existing and single storey semi-detached houses. There is a road between No. 6 and No 7 which provides access to three more contemporary style 'Mews' houses in a terrace known as No. 1-3 Bluebell Mews. These houses appear to have first floor accommodation and are orientated towards the Old Naas Road.
- 1.4. The site is located c. 200m to the north east of the Luas red line and Kylemore Luas Stop.

## 2.0 Proposed Development

- 2.1. The proposed development comprises of-
  - construction of a part 3, part 4, part 6-storey apartment block.
  - The proposed block will adjoin/extend from an existing and under construction 8 storey apartment building.
  - 25 no. 2 bed apartments

- 30 no. bicycle spaces at surface level and will benefit from
- 685 sq. m. of communal open space and
- 88 no. vehicle parking spaces
  - 79 no. car parking spaces,
  - 4 no. accessible parking spaces and
  - 5 no. motorcycle parking spaces - permitted under Reg. Ref. 4637/18).
- The vehicular parking is accessed from the existing permitted entrance under Reg. Ref. 2158/17.
- The proposed development represents a phase of the development permitted under Reg. Ref. 2158/17 and Reg. Ref. 4637/18
- This application and that permitted under the above reference numbers will provide for 128 no. units (22 no. 1-bed units, 90 no. 2-bed units, 15 no. 3-bed units and 1 no. studio).

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to refuse permission on the 06/01/01 for the following reasons-

1. Having regard to the height and bulk of the proposed new block, and its proximity to the single storey residential properties to the east, it is considered that the proposed development would be overbearing and result in overshadowing of these residential properties, which would seriously injure their residential amenities and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the height of the proposed new block, its orientation to the east of the communal open space, and having regard to the height of the blocks under construction to the south and west of the communal open space, it is considered that the proposed new block will have an unacceptable impact on the amenities and quality of the communal open space in terms of daylight

and sunlight provision which would seriously injure the residential amenities of the future occupants of these apartments and would be contrary to the proper planning and sustainable development of the area.

3. The development would contravene materially a condition attached to an existing permission for development. In this regard Condition 4 of the parent permission Reg. 2158/17, omitted block C from the development. The proposed development would thereby be contrary to the proper planning and sustainable development of the area.

## 4.0 Planning Authority Reports

### 4.1. Planning Reports

The report of the Planning Officer (dated 06/01/21) reflects the decision of the Planning Authority. The following is noted from the report:

- The site originally accommodated 7 cottages, within a row of 17 cottages sited along the northern side of the Old Naas Road. Six of the seven cottages under the original application have been demolished and the apartment structure approved under plan ref no. 2158/17 is currently under construction. One cottage remains on the site which is attached to the adjoining house.
- Planning permission was recently granted at this site under Reg 3404/20 for retention for 2 additional as built floors onto the residential block and an additional 16 units.
- Planning permission has been granted at this location for heights of 8 storeys.
- The proposed height of Block C ranges in height from 3-4 up to 6 storeys in height, in close proximity to the single storey residential properties to the east of the site. In this regard the proximity to single storey residential properties must be taken into consideration in dealing with this application, and what impacts this would have on their amenity.
- The Planning Authority is concerned about the scale and bulk of this block and its overbearing appearance, having regard to the incremental impact of what is already being built.

- No sunlight daylight analysis has been submitted with this application.
- Regardless of this it is considered that the proposed development due to its height, proximity to boundaries of single storey properties to the east of the site, and also due to the orientation of the site, it is considered that the proposed development would be seriously injurious to the residential properties to the east, and would be overbearing when viewed from these properties and would also overshadow the only available public open space to an unacceptable degree.
- This new block is located to the east of block B at right angles to it. The block would significantly overshadow the apartments under construction and also the communal open space. There are also concerns regarding overlooking issues of the blocks under construction and also the quality of their residential amenity.
- No public open space has been provided for this scheme so it is recommended that a contribution in lieu be provided for each of these units.
- The applicants assertion that this new block formed part of a phase of the development approved under Reg.4637/18 is misleading, as Block C was omitted out by way of condition under the parent permission for this site under Reg. 2158/17, so it did not form part of any phase of this development.
- On the site layout plan submitted as part of application 3404/20, the applicant indicated this area where the proposed block C is proposed as semi-private open space for the apartments and also indicated a playground to the northern part of the site. This is indicated on Drawing PL-002. The applicant is now intending to build on what would have been the open space for this scheme including the proposed playground.
- As per the Dublin City Development Plan 2016-2022 a maximum of 1 number car parking space per dwelling is required as per Table 16.1. The overall scheme would require approximately 128 car parking spaces. There is therefore a shortfall in the amount of car parking spaces provided at this location. Proximity to good public transport in the vicinity of the site is noted.

- All apartments appear to comply with the required minimum standards outlined in the 2018 Apartment Guidelines.

#### 4.2. Other Technical Reports

- Drainage Division- no objection subject to conditions.
- Transportation Division- further information was recommended in relation to a 'Residential Travel Plan' for the overall site, a car parking strategy and provision of cycle parking with 1 space per apartment.

#### 4.3. Prescribed Bodies

- HSA- Do not advise against the granting of permission

#### 4.4. Third Party Observations

There is one third party submission received and on file. The main issues raised can be summarised as follows-

- Concerns over size and height overshadowing single storey cottages from the overall development. Staggering of heights remains too high.
- Overlooking from east facing windows
- Absence of east facing balconies and room windows is welcomed
- Construction of a 2 metre wall to the east of the development is welcomed.

### 5.0 Planning History

Relevant applications at this Site

- 2819/21- Live application- Alterations to previously approved development (Reg. Ref. 2158/17 and Reg. Ref. 3404/20) including-
  - (i) change of previously approved unit types (Reg. Ref. 2158/17) at ground floor level of Block B resulting in 1 no. two-bedroom apartment and 1 no. studio apartment in lieu of 1 no. three-bedroom apartment;



- (ii) (ii) provision of an office (57 sqm) at ground floor level of Block B;
- (iii) (iii) change of materials previously approved at seventh floor level (Reg. Ref. 3404/20) from copper to grey render.

**Lodged- 25-May-2021**

- 3404/20- Retention permission and planning permission is sought for alterations and completion of previously approved development (Reg. Ref. 2158/17).
  - Retention of 2 no. additional as built floors of residential development Block A and Block B to provide an additional 16 no. units in Block A and an additional 10 no. units in Block B.
  - Planning permission is sought for completion of the development and all ancillary works necessary to facilitate the development.
  - The proposed development will result in the overall scheme extending to 8 storeys over basement level comprising 103 no. residential units, The development proposed for retention is identical to that approved under Planning Reg. Ref. 4637/18.

**Grant Permission- 05-Jan-2021**

The issues raised in this application appear to relate to Building Control matters only.

- 4637/18- Permission for modifications to development previously permitted under Reg. Ref. 2158/17 comprising of the addition of 2 no. floors of residential development to Block A and Block B to provide an additional 16 units in Block A and an additional 10 units in Block B resulting in an overall scheme extending to 8 storeys over permitted basement level and comprising 103 residential units.

**Grant Permission- 19-Jun-2019**

- 2158/17- comprising 85 no. residential units, in a development proposal of three blocks (Block A, B and C) ranging in height from 4-6.
  - 18 no. 1 bed units

- 55 no. 2 bed units and
- 12 no. 3 bed units
- Block A (6 storeys) comprises 48 units
- Block B (6 storeys) comprises 29 units.
- Block C (4 storeys) comprises of 8 units.

**Grant Permission-** 22-Sep-2017, Condition 4 stated-

The following element(s) shall be permanently omitted from the development:

(a) Block C shall be omitted in its entirety.

Reason: In the interest of the protection of residential amenity and clarification of the scope of this permission

- 29S.244822, 2194/15- demolition of 4 houses and the construction of a part 3 and 4 storey building over basement level comprising 38 no. aparthotel suites and 6 no. apartments with all associated site works, **Refused** 07/09/2015
  - For a number of reasons the proposed development would seriously injure the visual and residential amenities of properties in the vicinity and would not be in accordance with the proper planning and sustainable development of the area.

## 6.0 Policy Context

### 6.1. National Policy, Guidelines and Guidance

- 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;
- 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 1.3 states-

*'The 2018 Guidelines built on the content of the 2015 apartment guidance, much of which remains valid, particularly with regard to design quality safeguards such as internal space standards for 1-, 2- and 3-bedroom apartments, floor to ceiling height, internal storage and amenity space.'*

Section 1.19 states-

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

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

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

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

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

Section 2.15 states-

*In accordance with Section 28 of the Planning and Development Act 2000, as amended, planning authorities must apply the standards set out as planning*

*policy requirements in these guidelines, notwithstanding the objectives and requirements of development plans, local area plans and SDZ planning schemes.*

Specific Planning Policy Requirement 1 states-

*Apartment developments may include up to 50% one-bedroom or studio type units (with no more than 20-25% of the total proposed development as studios) and there shall be no minimum requirement for apartments with three or more bedrooms. Statutory development plans may specify a mix for apartment and other housing developments, but only further to an evidence based Housing Need and Demand Assessment (HNDA), that has been agreed on an area, county, city or metropolitan area basis and incorporated into the relevant development plan(s).*

Specific Planning Policy Requirement 2 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 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.*

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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.

Specific Planning Policy Requirement 3 states-

*Minimum Apartment Floor Areas:*

- *2-bedroom apartment (4 persons) 73 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.*

Specific Planning Policy Requirement 5- Ground Floor Ceiling Height

- 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

- 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 4.17- Cycle parking

*Quantity – a general minimum standard of 1 cycle storage space per bedroom shall be applied.....Visitor cycle parking shall also be provided at a standard of 1 space per 2 residential units.*

#### Section 4.19- Car Parking in Central and/or Accessible Urban Locations

*In 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.*

#### 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. 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) and the associated Urban Design Manual, A best practice guide
- Circular Letter: NRUP 03/2021- Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities (2021). The proposed development is for apartments only. This Circular and Guidelines are not applicable to the current development which if for apartments.
- Development Management Guidelines for Planning Authorities June, 2007- Section 7.7- Conditions directly departing from the application

*A condition that radically alters the nature of the development to which the application relates will usually be unacceptable. For example, a condition should not require the omission of a use, which forms an essential part of a proposed development, or a complete re-design of a development. If there is a fundamental objection to a significant part of a development proposal, and this cannot fairly be dealt with in isolation from the rest of the proposal, the proper course is to refuse permission for the whole.*

#### 6.1.4. Other Guidance-

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

- BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice’;
- BS EN 17037: 2018 ‘Daylight in buildings’

## 6.2. **Regional Guidance**

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

### 6.3. Dublin City Development Plan 2016-2022

- 6.3.1. The operative development plan is the Dublin City Development Plan 2016-2022. The majority of the site is located in a 'Sustainable Residential Neighbourhoods - Zone Z1 with a zoning objective-

*'To protect, provide and improve residential amenities'*

Residential uses are listed as a permissible use in the Development Plan.

A small section of the northern part of the site is zoned Z6 Employment/Enterprise Zones with a zoning objective-

*'to provide for the creation and protection of enterprise and facilitate opportunities for employment creation.'*

Residential uses are open for consideration in the Development Plan.

- 6.3.2. Map K of the Development Plan identifies the site within Strategic Development and Regeneration Area (SDRA) 5- Naas Road Lands. Table E of the Development Plan estimates SDRA 5 (Figure 24 of the Development Plan) has the capacity for 2,100 residential units. Although the site is located within SDRA 5 it is not located within lands zoned as Z14.

Section 15.1.1.5 of the Development Plan deals with SDRA 5 and refers to the Naas Road LAP and four key re-development sites of which the application site is not one.

- 6.3.3. The following policies of the Development Plan are considered relevant-

- Policy SC13 promotes sustainable densities with due consideration for surrounding residential amenities.
- Policy QH5 - addressing housing shortfall through active land management;
- Policy QH6 - sustainable neighbourhoods with a variety of housing;
- Policy QH7 - promotion of sustainable urban densities;
- Policy QH8 - promote the development of vacant and under-utilised sites;
- Policy 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 16.7 - Building Height in a Sustainable City, See also Figure.39 Building Height in Dublin Context.
  - 16.7.2 - sets out building height limits- Naas Road Medium Rise up to 50m
- 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'). Cycle parking Standards

#### 6.4. Naas Road LAP 2013 extended to January 2023

- The site is located within the boundary of the Naas Road LAP as identified on Map 1.2
- The site is located outside of the Key District Centre as identified on Map 1.3

- Relevant Housing policies and objectives include-
  - H2- To ensure that all new housing delivers high quality residential environments and protects the residential amenity of existing residential development in the plan area and its environs
  - H3. To seek housing at sustainable densities in order to create the critical mass of persons to support existing and proposed infrastructure and services in the plan area and the environs
  - H5. To seek a mix of housing typologies within residential developments and also in larger mixed use schemes.
  - HO1. To facilitate the sustainable development of approximately 2,100 additional residential units in the plan area
  - HO2. To facilitate and encourage new residential development in accordance with development plan residential quality standards.

## **6.5. Natural Heritage Designations**

- 6.5.1. The site is c. 9km west of the South Dublin Bay SAC (000210) and the South Dublin Bay and River Tolka Estuary SPA (004024). The site is also c.8.6km south west of the North Dublin Bay SAC (000206) and North Bull Island SPA (004006). It is noted the River Camac is c. 80-100m north of the site and drains to the Liffey which flows into Dublin Bay.
- 6.5.2. The site is located c.320m south of the Grand Canal pNHA.

## **6.6. Environmental Impact Assessment**

- 6.6.1. An Environmental Impact Assessment Screening report was not submitted with the application.
- 6.6.2. 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.)

6.6.3. It is proposed to construct 25 apartments. The number of residential units proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.156 ha and is located within an existing built up area. The site area is therefore well below the applicable threshold of 2 ha.

6.6.4. The site is an existing development site where 103 apartments are under construction and nearing completion. The addition of 25 apartments will not significantly increase the scale or nature of the potential impacts (considered having regard to Schedule 7 criteria) and I am satisfied that this relatively minimal increase of development on the site within a zoned, serviced, urban location will not have an adverse impact in environmental terms on surrounding land uses.

6.6.5. The proposed development is not likely to have a significant effect on any European Site (as discussed below in section 8.11) 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.

6.6.6. 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 (An EIAR Preliminary Screening form has been filled out).

## 7.0 The Appeal

### 7.1. Grounds of Appeal

One first party appeal has been received from Hughes Planning and Development Consultants on behalf of the applicants Arcourt Limited. The grounds of appeal can be summarised as follows:

- The applicants request the Board consider the application as submitted in the first instance.
- However in response to the refusal an alternative design proposal has also been prepared for consideration by the Board. The alternative removes a floor from the development resulting in a part 2, part 3 and part 5 storey development with 20 no. 2 bedroom apartments.
- The appeal sets out a site description, the planning history, planning precedents and details of the proposal as submitted to Dublin City Council (DCC).
- The appeal discusses compliance with National and Local Policy referring to objectives of the NPF, the NDP, Ministerial and Other Guidelines (i.e. SRDUA 2009, Apartment Guidelines 2018 (now superseded by the 2020 guidelines), Quality Housing for Sustainable Communities 2007, policies and objectives of the Dublin City Development Plan 2016-2022 and the Naas Road LAP 2013.
- The applicant has commissioned a daylight/ shadow analysis to accompany the appeal. The report which was submitted with 3680/20 illustrates the shadows cast on the neighbouring amenity areas between 10.00 and 16.00. It concludes there is minor additional overshadowing caused by the proposed development. The under construction development already has an overshadowing effect on neighbouring amenities. Annual Probable Sunlight hours for the windows to the front of No. 1-3 Bluebell Mews pass the BRE guidelines.
- There is a positive third party submission from the resident of No. 5 Old Naas Road.

- The majority of overshadowing would be as a result of the previously approved development i.e. an additional 2 floors to the existing 6 storey development.
- The Daylight Analysis and Overshadowing report analysed the amenity of the communal open space. This analysis identified areas that received a maximum of two hours of sunlight on March 21<sup>st</sup>. It is submitted that this passes and exceeds the minimum required as per the BRE Guidelines.
- The appellants refer to the alternative design proposal in this regard where height is further reduced.
- Condition 4 of 2158/17 required the omission of 'Block C'. The apartment block subject to this appeal has been redesigned and repositioned to maximise the unit numbers and ensure the site is reaching its full development potential. The relationship between the apartment block and Bluebell Mews has been improved.
- The proposed development is considered compliant with various quantitative and qualitative standards of the Planning Authority including site coverage (33%) and density (160 units per ha). The provisions of the 'Urban Development and Building Heights Guidelines 2018' are noted in which they seek to encourage increased building heights and density of development.
- The site is representative of an urban area at the edge of the City Centre, strategically placed to benefit from increased density and building height. The availability and frequency of public transport (bus and Luas) needs to be considered. The site is considered to be a location in accordance with Section 5.5 'Appropriate locations for increased densities' of the 2009 SRDUA Guidelines.
- Properties sensitive to overlooking include Bluebell Mews and Old Naas Road Cottages to the immediate east of the site. The proposal has been designed to negate the potential for overlooking. There are no windows above ground floor on the eastern elevation serving apartments. The windows on the eastern elevation serve communal hallways. These windows are further setback from the site boundary with a separation distance of 14m.

- In terms of overshadowing the Daylight and Overshadowing Report assessed the impact of the under construction units on the adjoining site to the west, the central communal open space, the garden space to the rear of No. 7 Old Naas Road and No's 1-3 Bluebell Mews. The results demonstrate the proposed development will not have an unacceptable effect on the 'under construction units facing the proposed development. An amenity analysis was carried out on the rear garden of No. 7 Old Naas Road and the results show a 100% pass against the BRE Guidelines.
- The permission granted under 4637/18 provides 79 car parking spaces, 4 accessible parking spaces and 5 motorcycle spaces. As his proposal represents a phase of the previously approved development the future occupants would benefit from the facilities previously permitted. Having regard to bus and Luas stops within 300m of the site, car parking provision is appropriate.
- There is a disparity in the requirement for the provision of cycle parking between the Development Plan 25 spaces and the Apartment Guidelines which require 62.5 spaces. The development is served by 30 secure spaces (1.2 per apartment) and given the proximity of public transport this is considered appropriate to ensure a high standard of residential amenity.

## 7.2. Planning Authority Response

- None received

## 7.3. Observations

- None

## 8.0 Assessment

### 8.1. Introduction

- 8.1.1. I have examined the application details and all other documentation on file, including the submissions 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. The applicants have specifically requested the original proposal be assessed first and if it is not considered acceptable to the Board they also put forward an 'Alternative Design Option' for consideration.

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

- The Application Type
- Zoning and Principle of the Development,
- Residential Amenity
- Communal Amenity Space
- Condition 4 of 2158/17
- Apartment Standards
- The 'Alternative Design Option'
- Consideration of Possible Conditions
- Car and Cycle Parking
- Appropriate Assessment

## 8.2. **The Application Type**

8.2.1. Planning permission 2158/17 permitted much of the under construction development to the immediate west of the application site boundary. The site of the current application also formed part of 2158/17 and 'Block C' of that development was omitted by way of a condition of the Planning Authority. That condition was not appealed.

8.2.2. The current proposal is located generally in the same area as 'Block C' but the site boundary is not the same as that for 2158/17 and only includes the eastern part of the site. The applicants argue in section 5.2 of their grounds of appeal that the current scheme has been redesigned and represents a phase of the previously approved development 4387/18 and 3404/20. These two permissions were for

modifications and amendments to the overall parent permission 2158/17 and conditions to this effect were attached by DCC to both applications thereby tying them to their parent permission.

- 8.2.3. Having reviewed the development description, the applicants have referred to the application as a 'phase of the development permitted under' 2158/17. However they have not applied to modify or to amend that permission. In this context, the current application should generally be considered as a standalone application and assessed on its own merits.
- 8.2.4. However, the proposal clearly forms part of the larger development site (of which the applicant is also the landowner) and in my opinion the proposal should therefore be reasonably considered in that context. In particular, the impact arising from the proposal upon the quality of the overall scheme which is under construction must be taken into consideration. Appropriate regard to the permissions granted under 2158/17, 4637/18 and 3404/20 is therefore considered reasonable and necessary.

### **8.3. Zoning and Principle of the Development**

- 8.3.1. The appeal site has a zoning objective 'Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022, with a stated objective '*to protect, provide and improve residential amenities*', where residential uses are a permissible use within this zoning.
- 8.3.2. A small part to the north of the site is zoned Z6 Employment/Enterprise Zones with a zoning objective '*to provide for the creation and protection of enterprise and facilitate opportunities for employment creation.*' Residential uses are considered 'Open for Consideration Uses' within this zoning.
- 8.3.3. Accordingly, I am satisfied the provision of apartments units on the site accords with the land-use zoning as set out in the Development Plan.

### **8.4. Residential Amenity-**

- 8.4.1. For the purpose of this assessment, ease of reference and clarity I shall refer to the building under construction and opposite the proposed development to the west as 'Block A'. I shall refer to the building under construction, adjoining and perpendicular



to the proposed development as 'Block B'. Finally I shall refer to the proposed development as 'Block C'. (This should not be confused with 'Block C' omitted by condition under 2158/17 albeit in a similar location). Existing houses are those to the east of the application site known as 1-7 Old Naas Road and those located behind no's. 6 & 7 known as No. 1-3 Bluebell Mews.

- 8.4.2. The Planning Authority's first refusal reason considered that the proposed height, bulk and proximity of the development would be overbearing and result in overshadowing of existing residential properties to the east which would seriously injure their residential amenities.
- 8.4.3. In their appeal the applicants argue that 3 and 4 storey elements of the proposal offer relief to the single storey dwellings to the east of the subject site. The 6 storey element is set back over 13.8m from the eastern boundary. The applicants have also submitted a Daylight Analysis and Overshadowing Report with the appeal in which they argue the majority of overshadowing would in fact be from the 8 storey buildings as permitted by 3404/20.
- 8.4.4. I consider there to be four matters to be addressed in relation to residential amenity-
- Overbearing
  - Overshadowing/Loss of Daylight to Houses to the East and to 'Block B'
  - Daylighting to the Proposed Apartments
  - Overlooking

I propose to look at these matters separately before arriving at an overall conclusion.

#### 8.4.4.1. **Overbearing**

- a) I note the properties of concern for the Planning Authority are existing houses along the Old Naas Road to the east of the site. In this regard the boundaries of No. 7 Old Naas Road and No. 1 Bluebell Mews adjoin the eastern boundary of the application site.
- b) It is proposed that the development will form part of the larger apartment scheme where 8 storey buildings have been permitted and are under construction from the junction off the Kylemore Road along the Old Naas Road to the application site. The subject development will provide a transition

in height from the existing 8 storey building to the subject part 6, part 4 and part 3 storey building down to the existing single storey property along the Old Naas Road. The part 3 storey building will be set back c. 4m from the eastern site boundary and the house at No. 7 Old Naas Road. The proposed part 4 storey building will be set back c. 4m from the eastern boundary of the site and c. 5m of the house at No. 1 Bluebell Mews.

- c) The proposed development would address the blank 8 storey east facing gable that in my opinion presents a poor elevation and design element to the public realm along the Old Naas Road and in this regard the proposal is supported.
- d) I acknowledge the Planning Authorities concerns in relation to the overbearing and incremental impact of the proposed development and the proximity of existing properties to the east. However in my opinion, the general character of this area has already being significantly changed by the granting of planning permission for 6 and then 8 storey apartment buildings under 3404/20, 4637/18 and 2158/17, which are now being built and are nearing completion. As such these buildings are clearly imposing their own dominant character on this area. Accordingly the gradual transition in building heights as proposed, and the set back off the eastern boundary would improve upon the existing east facing elevation treatment and would not in my opinion, be unduly overbearing. It would instead, be reasonable in the context of the evolving character of the area.

#### 8.4.4.2. **Overshadowing/Loss of Daylight to existing houses to the East and to 'Block B'**

##### *Houses to the East*

- a) The proposed development is located to the east side of the larger development currently under construction and bounds the property of No. 7 Old Naas Road and No. 1 Bluebell Mews.
- b) The Planning Authority detailed the absence of a sunlight daylight analysis with the application and their concerns in this regard relate to overshadowing of existing residential houses to the east of the application site. I note the first

refusal reason does not raise concerns over access to daylight internally in these houses, and windows to the front elevation of these properties generally face south. In my opinion these houses should not be affected significantly by the development in this regard.

- c) I have reviewed the Daylight Analysis and Overshadowing Report submitted with the appeal. The executive summary details the report was prepared using methodology's set out in the British Standard: Lighting for Buildings – Part 2: Code for Practice for Daylighting, BRE 209, Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' Second Edition 2011, and the March 2018 Apartment Guidelines.
- d) Specifically relating to overshadowing, Section 7 of the submitted report identifies shadows cast on March 21<sup>st</sup>, June 21<sup>st</sup>, September 21<sup>st</sup> and December 21<sup>st</sup> over the course of a number of hours throughout the day. The report details there is a minor additional overshadowing caused by the proposed development and that the under construction 8 storey development already has an overshadowing effect.
- e) Section 5 of the report investigates if the garden area of No.7 Old Naas Road achieves 2 hours of sunlight on March 21<sup>st</sup> or failing that, does not result in levels that are less than 0.8 times the existing levels. The report confirms that the total area of the rear garden receives a minimum of two hours of sunlight and accordingly passes the requirements of BRE 209.
- f) I note section 5 of the report does not consider other existing houses in the immediate area e.g. 1-3 Bluebell Mews but having considered section 7 of the report, the orientation of these properties and their location east of the application site, I consider it reasonable to assume that the extent of sunlight to the garden area that these properties already receive would not be reduced below 2 hours or not less than 0.8 of that previously enjoyed over the course of March 21<sup>st</sup> if this permission were granted having particular regard to the permitted 8 storey development under construction.

*'Block B'*

- g) The application is proposed as a phase of the development permitted under 4637/18 and 2158/17. The Planning Authority have not raised concerns in

relation to the impact of overshadowing and loss of daylight from the proposed development upon the development under construction and in particular on 'Block B'.

- h) The proposed development will be 6 storeys with a height of 21.625m. It will stretch 22.9m from the rear elevation of 'Block B' and appears to be at a 90 degree angle. It will provide a considerable bulk and visible presence to the rear of 'Block B'.
- i) The closest permitted apartments in 'Block B' to the proposed development appear to be dual aspect with north facing bedrooms across all floors. These bedrooms have windows and patio style doors ranging from c. 1m - 8m from the proposed development.
- j) Given the size and location of the proposed development, I consider it appropriate to examine the potential impact of overshadowing from the proposed development on 'Block B' as it directly adjoins and is perpendicular to the proposed development and notably its lower floor apartments with north facing windows.
- k) The Daylight Analysis and Overshadowing Report submitted with the appeal does not specifically refer to overshadowing or loss of daylight in this context. However the overshadowing images provided in section 7 do set out the existing conditions and the impact of shadows cast from the proposed development on March 21<sup>st</sup>, June 21<sup>st</sup>, September 21<sup>st</sup> and December 21<sup>st</sup> over the course of a number of hours throughout the day. These images suggest to me, other than for a short period of time on June 21<sup>st</sup> the rear/north facing elevation of 'Block B' would be increasingly overshadowed by the proposed development and windows facing north would lose a significant amount of daylight especially in the earlier part of the day.
- l) Chapter 2 of BRE209 Guidelines deals with 'Light from the Sky'. Section 2.2 'Existing Buildings' details that it is important to safeguard daylight to nearby buildings and offers advice for rooms where daylight is required including living rooms, kitchens and bedrooms. The floor plans submitted with the application provide some information on the layout of apartments in 'Block B' as permitted under 4637/18 and 2158/17 and of particular concern is a

number of bedrooms in close proximity to the proposed development over a number of floors.

m) Appendix F, paragraph F6 of BRE209 states-

*'In accessing the loss of light to an existing building the VSC is generally recommended as the appropriate parameter to use.'*

Paragraph F7 states-

*'Use of the ADF (Average Daylight Factor) for loss of light to existing buildings is generally not recommended.'*

However Paragraph F8 clearly details scenarios where meeting a set ADF target value to an existing building could be a criterion for loss of light (instead of VSC). There are four scenarios provided and in my opinion the first scenario best suits this application and states-

(i) *where the existing building is one of a series of new buildings that are being built one after another and each building has been designed as part of the larger group.*

In this regard I refer to the development description which clearly states-

*The proposed development represents a phase of the development permitted under Reg. Ref. 2158/17 and Reg. Ref. 4637/18.*

- n) I am therefore satisfied that the appropriate test in this context would be to assess the ADF of the windows in 'Block B' which the submitted drawings suggest are bedrooms. The ADF requirement for bedrooms is 1% as per section 2.1.8 and Appendix C C4 of BRE209 and Table NA.1 of BS EN 17037 (supersedes BS 8206-2).
- o) The Daylight Analysis and Overshadowing Report submitted with the appeal does not provide any information on the original ADF standards for the existing apartments in 'Block B' and the proposed ADF standards as impacted by the proposed development as per the scenario described in Appendix F F8 of BRE 209.
- p) In terms of Light from the Sky section 2.2.13 of BRE209 states-

*‘as a general rule the aim should be to minimise the impact to the existing property. This is particularly important where successive extensions are planned to the same building’.*

Although not an extension in the typical sense the proposed development adjoins and will protrude to the rear of ‘Block B’. Section 2.2.14 describes a quick method (‘the 45 degree approach’) to assess diffuse skylight impact on a ‘house’ next door. It only applies where the nearest side of the extension is perpendicular to the window. I appreciate BRE209 generally prescribes this method for ‘domestic extensions, however given the number and proximity of bedroom windows and patio doors over 6 floors of ‘Block B’ I am satisfied the ‘45 degree approach’ is a reasonable technique to use to consider the impact on daylight to these bedrooms in the absence of any other information from the applicants. As per section 2.2.15 of BRE209 I am satisfied that the proposed development ‘*may well cause a significant reduction in the skylight received*’ to the windows to the rear of ‘Block B’. The originally permitted and proposed Average Daylight Factor to these rooms in ‘Block B’ would in my view be required to determine otherwise.

- q) Having considered the above and in the absence of an assessment on the impact of the proposed development upon apartments in ‘Block B’, I have significant concerns in relation to the extent of overshadowing from the proposed development and the reduction of interior daylighting to the windows of apartments in ‘Block B’. This has the potential to negatively impact upon the residential amenity of future occupants of these apartments.

#### **8.4.4.3. Daylighting to the Proposed Apartments**

- a) 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 EN 17037:2018, 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 would be 2%.

- b) The proposed development has been specifically designed with a circulation hallway along the eastern side of the building on all floors so as to avoid overlooking of existing property. As a result a number of apartments are single aspect and rely solely on daylighting from windows on its western elevation i.e. apartments 3, 8, 13 17, 21 and 24. These windows directly oppose the existing and under construction 8 storey building ('Block A') that is a stated 40.055m to the west and with a stated height of 28.536m.
- c) The Daylight Analysis and Overshadowing Report submitted with the appeal assesses the impact of the proposed development upon daylighting of the building to 'Block A'. Or in other words the impact of the 6 storey building 'Block C' on the lower floors of the 8 storey building 'Block A'. I note this assessment details six apartments in 'Block A' are identified below the Vertical Sky Component (VSC) requirement of 27% but not less than 0.8% of existing and as a result pass the requirement of BRE209 in this regard.
- d) The applicants have not submitted any details of the proposed Average Daylight Factor (ADF) for the proposed apartments in 'Block C'. As the applicants have identified six apartments in 'Block A' that fall below the VSC requirement I consider that in the absence of ADF details for the proposed development it is reasonable to assume the impact on daylighting from 'Block A' on the proposed 'Block C' would be greater than the other way around. In this regard I have concerns that the lower floor apartments of 'Block C' with only one aspect facing west may not achieve the minimum recommend daylight to each room type as identified in BRE209.
- e) Notwithstanding this I also have serious reservations in relation to the overall quality of bedroom 1 in apartments 3, 8, 13, 17, 21 & 24 which are located almost on and perpendicular to, the building line of the rear elevation of 'Block B'.
- f) Having regard to the above I consider that the development as proposed would have a negative impact upon the residential amenity of future occupants of the proposed development.

#### 8.4.4.4. **Overlooking**

- a) As highlighted above the subject application proposes a building to the side of 'Block B' which extends 22.9m from the rear elevation of 'Block B'.
- b) Apartments 3, 8, 13, 17, 21 & 24 are west facing only and have two bedroom windows and a balcony area across all six floors within c. 5-8 metres of permitted balcony areas and windows to the rear of 'Block B' across its lower 6 floors.
- c) In my opinion the development as proposed in such close proximity to each other would lead to direct overlooking that would impact negatively on the residential amenity of future occupants of apartments in both buildings.

#### 8.4.4.5. **Conclusion**

Having regard to-

- the two 8 storey apartment blocks (A & B) in the development nearing completion perpendicular to and opposite the proposed development 'Block C'
- the fact the application proposes the new development to form a phase of the overall scheme
- the evolving character of the area,
- the proposed building height transition from west to east,
- the existing residential properties to the east of the application site
- the submitted Daylight Analysis and Overshadowing Report
- BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice and
- BS EN 17037:2018 Daylight in buildings

I consider that the proposed development would not be unduly overbearing which would result in undue overshadowing of existing residential property to an unacceptable level to the east of the site. Accordingly I am satisfied the proposed development would not seriously injure the residential amenities of these properties. I therefore do not agree with the Planning Authorities first refusal reason.



However having considered-

- The extent of overshadowing from the proposed development on 'Block B'
- the absence of the originally permitted Average Daylight Factor to bedrooms facing north in 'Block B'
- the absence of the proposed Average Daylight Factor to bedrooms facing north in 'Block B' as a result of the proposed development-
- the absence of the proposed Average Daylight Factor to west facing apartments in the proposed development ('Block C') and the result quality of rooms therein, and
- the significant potential of undue overlooking to and from proposed Apartments 3, 8, 13, 17, 21 & 24 on permitted apartments in 'Block B'

the proposed development would be likely to have a significant negative impact upon the residential amenity of future occupants of the adjoining development in 'Block B' and the proposed development.

The Board are advised that the concerns raised in this section have not been raised by the Planning Authority and they may wish to consider them as '**New Issues**'. However having regard to other substantive reasons as outlined in section 8.5 below and based on the information on file I recommend this application be refused.

## 8.5. Communal Amenity Space

- 8.5.1. The Planning Authority's second refusal reason considered that the proposed development will have an unacceptable impact on the amenities and quality of the communal open space in terms of daylight and sunlight provision which would seriously injure the residential amenities of the future occupants of the proposed apartments and those already under construction.
- 8.5.2. In their appeal the applicants contend that the submitted 'Daylight Analysis and Overshadowing Report' calculates the area of sunlight that receives a minimum of two hours of sunlight on March 21<sup>st</sup>. It argues the proposal exceeds the minimum required as per the BRE Guidelines. Notwithstanding this, the applicants also put forward an 'Alternative Design Option'.

8.5.3. I consider there to be two matters for consideration-

- Provision of Communal Amenity Space in accordance with the Apartment Guidelines (Section 4.10 - 4.12 and Appendix 1)
- Daylight and Sunlight provision to the proposed communal amenity space

I propose to look at these matters separately before arriving at an overall conclusion.

**8.5.3.1. Provision of Communal Amenity Space in Accordance with the Apartment Guidelines (Section 4.10 - 4.12 and Appendix 1)**

- a) In section 5.4 of the Planning Report accompanying the application, the applicant details the proposal is fully compliant with the minimum standards for communal amenity space to serve individual units in accordance with the 2018 Apartment Guidelines. (I note there is no change to these requirements in the 2020 Apartment Guidelines). The applicants detail the requirement is for 175 sq.m and the proposed development would benefit from 685 sq.m of communal amenity space associated with 4637/18.
- b) As discussed in section 8.2 reasonable regard should be had to the permissions granted under 2158/17, 4637/18 and 3404/20 and the site's context as part of the larger development site under the control of the applicant. In particular the impact the proposed development has, upon the quality of communal amenity space for the overall development is in my opinion, paramount.
- c) In section 5.16 of the submitted Planning Report dealing with Housing Mix, the applicants indicate there will be-
  - 22 one bed apartments,
  - 90 two bedroom apartments,
  - 15 three bedroom apartments and
  - 1 studio apartments in the overall development.

On this basis, I calculate there to be an overall requirement for 879 sq.m of communal amenity space which is significantly more than the 685 sq.m which the applicants propose to benefit the subject application and the overall

development. In terms of 'quality' I consider the proposed quantum of communal amenity space to be deficient and therefore poor.

d) Having reviewed the following drawings-

- 'proposed block site layout plan' drawing no.992/16/20 granted under 2158/17 and
- 'Site Layout Plan Granted under 4637/18' drawing no. PL-006

both of which are submitted with this application, I note the provision and quality of communal open space for the overall development is significantly reduced in the proposed application. The permission granted under 4637/18 appears to provide at least 1,767 sq.m of communal amenity space.

g) I accept the application could be considered an 'Urban Infill Scheme' on a site of 0.156 ha. Section 4.12 of the Apartment Guidelines states communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to 'overall design quality'.

h) However I do not consider it appropriate to consider relaxation of this requirement afforded by section 4.12 of the Guidelines where the subject application clearly has a significant impact on the overall design quality of the development permitted under 2158/17 and 4637/18. To do so would in my opinion have significant amenity implications for future residents of those apartments and of the residents of the subject application.

i) Furthermore the provision of a deficient and poor quantum of communal amenity space that is also enclosed on its east, south and west elevations by 6 and 8 storey buildings for 128 apartments would not in my opinion be of a sufficient 'quality' to justify relaxing requirements in this context.

j) Therefore and in my opinion the proposed development does not comply with the requirements of the 2020 Apartment Guidelines.

k) The Board are advised that the matter of size and compliance with the Apartment Guidelines did not form any part of the Planning Authority's refusal reasons and the Board may wish to consider this a **New Issue**.

#### 8.5.3.2. Daylight and Sunlight provision to the proposed communal amenity space

- a) In terms of sunlight provision to the proposed communal amenity space, Section 4 of the Daylight Analysis and Overshadowing Report submitted with the appeal, details an analysis of the amenity space within the proposed development against the requirements of section 3.3 of BRE 209.
- b) It finds that 445.2 sq.m from a total communal area of 786.6 sq.m or 56.6% will receive the minimum required sunlight as per the BRE guidance.
- c) There is clear conflict in the calculable areas used where the application drawings (PL\_002 and PL\_003) and the appeal (section 4.0 and 5.1.6) clearly indicate the overall development would provide for 685 sq.m of open space and not 786.6 sq.m as used in the submitted report with the appeal.
- d) The report also provides a 'graphical form' i.e. Figure 4 which highlights the areas above and below 2 hours of sunlight in red and green. The report says these are '*followed by images at one-hour intervals for context*'. However no such images appear to be on file.
- e) I refer to Section 7 of the report dealing with Overshadowing. This provides shadow cast images at two hour intervals from 10.00, 12.00, 14.00 and 16.00 on March 21<sup>st</sup>. Based on these images and in my opinion, sunlight does not appear to fall on the communal open space for a two hour period during the hours identified on March 21<sup>st</sup>.
- f) Accordingly, I have significant concerns that at least 50% of the area of communal amenity space proposed for the overall development of which the subject application is proposed 'a phase'), would not benefit from a minimum of two hours of sunlight on March 21<sup>st</sup> in accordance with section 3.3 of BRE 209.

### 8.5.3.3. Conclusion

Having considered-

- the submitted Daylight Analysis and Overshadowing Report and in particular the apparent discrepancy in section 4 related to calculable area and the two hourly shadow cast images provided in section 7,

- the requirement as set out in the 2020 Apartment Guidelines (and 2018 Guidelines) for 879 sq.m of communal amenity space for the overall development of which it is stated this application will form a phase of,
- the proposed provision of 685 sq.m of communal amenity space which the applicants propose to benefit the subject application and the overall development

I consider that the proposed development would result in a significant reduction in the level of communal amenity space required to benefit the already permitted and under construction apartment scheme as well as the proposed development. The level of reduction would be to the detriment of the overall quality of open space permitted under 2158/17 as amended by 4637/18 and 3404/20.

Furthermore and in the context of 'quality' as set out in section 4.10 – 4.12 of the Apartment Guidelines and as based on the information submitted with the appeal, it is considered that the proposed development would not be in accordance with section 3.3 of the BRE 209, Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' Second Edition 2011 and would be contrary to Housing Policy H2 of the Naas Road LAP 2013-23 which seeks to ensure that all new housing delivers high quality residential environments and protects the residential amenity of existing residential development in the plan area and its environs. To permit the development as proposed would have an unacceptable impact on the residential amenities of the future occupants of the overall apartment development and accordingly permission should be refused.

## 8.6. Condition 4 of 2158/17

- 8.6.1. The Planning Authority's third refusal reason considered that the proposed development would 'contravene materially' condition 4 of the parent permission Reg. 2158/17 which omitted 'Block C' from the development.
- 8.6.2. Notwithstanding the Planning Authority's reasons for omitting 'Block C' from 2158/17 it is my opinion, that the fact part of a proposal was excluded in a previous permission by means of a condition does not mean the proposal should be automatically refused for that reason in a subsequent application.

8.6.3. The applicants also argue that the development put forward as part of the subject application has been redesigned and repositioned to maximise the number of units and to achieve the sites development potential.

8.6.4. In this context I am satisfied the proposed development is not the same as that previously omitted and the third refusal reason is not warranted in this instance.

## 8.7. **Apartment Standards**

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

8.7.2. Notwithstanding section 8.2 of this report, the proposal is considered to be an 'Urban Infill Scheme' on a site of 0.156ha 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- SPPR 1, 2, 3, 4, 5, and 6.

### 8.7.3. SPPR 1 and 2

Notwithstanding the Housing Mix provided for in the applications permitted under 2158/17, 4637/18 and 3404/20 this application proposes 25 two bedroom apartments. Having regard to the provisions of SPPR 1 and 2 in relation to Housing Mix I am satisfied the proposed provision of only two bedroom apartments is acceptable.

### 8.7.4. SPPR 3

SPPR 3 sets out minimum requirements for apartment floor areas and in particular requires 73 sq.m for 2-bedroom apartment (4 persons). In section 5.4 of the Planning Report accompanying the application and as shown on drawings no PL\_100 and PL\_101 the applicant indicates the provision of 78-88 sq.m for the proposed 2 bed units. I am satisfied the proposed provision of floorspace to all two bedroom apartments is acceptable.

8.7.5. 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 or 2-bedroom unit types, by a minimum of 10%.

In accordance with the example provided in section 3.9 of the Guidelines I have calculated the 'Cumulative Min Floor Area' for 25 two bed apartments to be- 1,825 sq.m. The 'Total Required Minimum Floor Area' for the majority of apartments- 13 would be  $1,825 + 94.9 = 1,919.9$  sq.m. Therefore 94.9 sq.m of additional floor space is required and needs to be allocated to at least the majority of the apartments i.e. 13 units. The floor plan drawings show at least 15 apartments exceed the minimum floor space requirement by at least 10% ranging from 10-15 sq.m excess. In my opinion, the proposed development complies with the requirements of section 3.8 of the Guidelines.

8.7.6. 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 have indicated they are proposing 52% dual aspect apartment which equates to 13 apartments. They also indicate the number of south facing and west facing single aspect units has been maximised.

Having examined the drawings submitted with the application I note 13 apartments appear to have dual aspects and 12 appear to have a single aspect. Of the single aspect apartments all have windows and balconies facing south or west. I am satisfied the proposed development complies with SPPR 4.

8.7.7. SPPR 5

This SPPR requires ground level apartments to have floor to ceiling heights of a minimum of 2.7m. The section drawings shows ground floor to ceiling heights of 3.5m. I am satisfied the proposed development complies with SPPR 5.

#### 8.7.8. 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 for five upper floors with one core and a maximum 5 apartments across a floor. I am satisfied the proposed development complies with SPPR 6.

#### 8.7.9. 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, private amenity space and communal amenity space. Having reviewed the submitted drawings, the proposed development appears to meet most these requirements.

- Communal Amenity Space (Appendix 1 and Section 4.10)

See section 8.5 above.

- Building Lifecycle Report (Section 6.13)

Although not especially related to 'overall quality' 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.

### 8.8. **The Alternative Design Option**

- 8.8.1. As the original proposal was not considered acceptable to the Planning Authority the applicants have also submitted an 'Alternative Design Option' for consideration by the Board should the original proposal not be acceptable.



- 8.8.2. The 'Alternative Design Option' provides for 20 apartments and the omission of one floor across the development reducing its height to a part 5, part 3 and part 2 storey development transitioning from west to east.
- 8.8.3. As per section 8.4 of this report I have already considered the transition and separation distance provided by the original proposal not to be overbearing and would be acceptable in the context of the evolving character of the area. I therefore do not consider the 'Alternative Design Option' to be necessary in this regard.
- 8.8.4. The omission of one floor across the development thereby reducing its height would reduce the extent of overshadowing on the rear elevation of 'Block B' i.e. the adjoining building under construction. However I am not convinced the level of reduction would be significant to address concerns of daylight to kitchen, living room and bedroom windows. In the absence of details of the minimum average daylight factor to such rooms, my concerns over the potential impact upon the residential amenity of future occupants remain.
- 8.8.5. The omission of one floor across the development thereby reducing its height does not address my concerns relating to the recommend Average Daylight Factor for the proposed west facing apartments. It remains reasonable to assume the impact on daylighting from the existing 8 storey building 'Block A' on the 'Alternative Design Option' would be the same as the original proposal as regard to the lower floor apartments. Therefore my concerns remain that the lower floor apartments with only one aspect facing west may not achieve the minimum recommend daylight to each room type as identified in BRE 209. This would have a negative impact upon the residential amenity of future occupants of the proposed development.
- 8.8.6. The 'Alternative Design Option' would, due to its reduction in height provide for a likely increase in sunlight on March 31st to the proposed communal amenity space. However the 'Daylight Analysis and Overshadowing Report' submitted with the appeal does not provide an analysis of the 'Alternative Design Option' and the calculable area of amenity space remains incorrect. Therefore, I cannot say with any certainty, that more than 50% of the communal space will achieve a minimum of 2 hours sunlight or be in accordance with section 3.3 of BRE209.
- 8.8.7. The 'Alternative Design Option' provides for 5 apartments less and therefore a reduction of 35 sq.m of overall required communal amenity space in accordance with

the Apartment Guidelines. As per section 8.5.3.1 the overall requirement for communal amenity space for the 'Alternative Design Option' would now appear to be 844 sq.m. The 'Alternative Design Option' also proposes to benefit from 685 sq.m of the overall space.

8.8.8. The 'Alternative Design Option' retains the same foot print as the original proposal for 25 units and therefore the overall deficit in communal amenity space would remain for the overall development of which the subject application is proposed as a phase of.

8.8.9. As per section 8.5, I also consider the 'Alternative Design Option' would result in a significant reduction in the level of communal amenity space required to benefit the already permitted and under construction apartment scheme as well as the proposed development. The level of reduction is considered to be to the detriment of the overall quality of open space permitted under 2158/17 as amended by 4637/18 and 3404/20. Therefore and in the context of 'quality' as set out in section 4.10 - 4.12 of the Apartment Guidelines and as based on the information submitted with the appeal, it is considered that the proposed development would not be in accordance with section 3.3 of the BRE209, Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' Second Edition 2011 and to permit the 'Alternative Design Option' as proposed would have an unacceptable impact on the residential amenities of the future occupants of the overall apartment development.

## 8.9. Consideration of Possible Conditions

8.9.1. Having considered the proposed development, the Planning Authority's decision, the appeal with its 'Alternative Design Option' and the planning history in the immediate area, I note my residential amenity concerns in relation to the application generally relate to provisions of the-

- Apartment Guidelines 2020-
  - Section 4.10 - 4.12 communal amenity space
  - Section 6.6 which details 'planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide 'Site Layout Planning for Daylight and

Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting''.

- Dublin City Development Plan 2016-22-
  - Section 16.10.1 Residential Quality Standards – Apartments which details '*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)*'
- Housing Policy H2 of the Naas Road LAP 2013-23 and
- BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' 2011;

8.9.2. BRE209 is evidently an important document that significantly influences development. However it must be noted that section 1.6 specifically details that the advice given is not mandatory and the advice should not be seen as an instrument of planning policy.

8.9.3. Notwithstanding the concerns, I have raised in relation the overall size and quality of communal amenity space and the impacts of the development on future residential amenity, the majority of the site is zoned Z1 - Sustainable Residential Neighbourhoods' within the Dublin City Development Plan 2016-2022. Having considered the other relevant provisions of the Development Plan, the Naas Road LAP, the NPF, the 2020 Apartment Guidelines, the availability of public services and in particular the proximity of the site to public transport, the site is appropriate for residential development.

8.9.4. Having regard to the above I have given consideration to the following possible options to address residential amenity concerns by condition-

a) The omission of 10 apartments No's 4, 5, 9, 10, 14, 15, 18, 19, 22 and 25 and the northern most stairwell. The area of the site vacated could then be incorporated into the overall communal amenity space.

b) The omission of 10 apartments No's 13, 14, 15, 17, 18, 19, 21, 22, 24 and 25

8.9.5. In terms of Option A I estimate the footprint of the northern part of the proposed development to be c. 181 sq.m (i.e. the area of the ground floor apartments 4, 5 and

the northern most stairwell). The omission of this part of the development and replacement of this area with communal amenity space would significantly improve the quantum (c. 866 sq.m) and quality of communal amenity space for the overall development ensuring the communal amenity space provision for 118 apartments would comply with the requirements of the Apartment Guidelines.

- 8.9.6. Such a revision to the development would also open up the eastern boundary of the majority of communal amenity space to the morning sunlight from the east. I consider this would provide at least 2 hours of direct sunlight on March 21<sup>st</sup> to at least 50% of the amenity space and would therefore comply with the recommendations of section 3.3 of BRE 209.
- 8.9.7. I also consider the omission of the stairwell and insertion of windows on the northern elevation of apartments 3, 8, 13, 17, 21 and 24 would address concerns in relation to interior daylighting to the proposed development.
- 8.9.8. However the development would still extend c. 9-10m at a c. 90 degree angle from the rear elevation of 'Block B' over 6 floors to a height of 21.62m. Having again considered the '45 degree approach' as outlined in section 2.2.15 of BRE209 and in the absence of the permitted ADF of the bedrooms in 'Block B' and the subsequent ADF as a result of the proposed development, my concerns of overshadowing and loss of daylight to these rooms remain. Furthermore this option would not address concerns of overlooking to and from apartments 3, 8, 13, 17, 21 and 24.
- 8.9.9. Option B would significantly address the concerns of overshadowing and loss of light to rooms in 'Block B' and the majority of overlooking concerns. However it would not address the concerns in relation to ADF to the remaining lower floor apartments in 'Block C' opposite 'Block A', or the quantum and quality of communal amenity space for the overall development.
- 8.9.10. I also refer to section 7.7 of the Development Management Guidelines 2007 which details a condition should not require a complete re-design of a development. It states-

*If there is a fundamental objection to a significant part of a development proposal, and this cannot fairly be dealt with in isolation from the rest of the proposal, the proper course is to refuse permission for the whole.*

In this context the options above would in my opinion require a significant redesign of the scheme that is beyond the scope of alterations that could reasonably be addressed by condition.

## **8.10. Car and Cycle Parking**

- 8.10.1. Section 6.3 of the appeal indicates that the proposed development does not provide for any car parking and would instead benefit from the provision of 79 car parking spaces, 4 accessible parking spaces and 5 motorcycle spaces provided under 4637/18.
- 8.10.2. Having considered the provision of section 4.19 of the Apartment Guidelines which details 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. The site is located in very close proximity to public transport and in particular the red Luas line and the Kylemore Luas Stop. In this context I consider the provision of no car parking spaces for the subject application to be acceptable.
- 8.10.3. Section 6.4 of the appeal indicates that the proposal is served by 30 cycle parking spaces. This is not 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 visitor spaces. There is therefore a requirement for 50 resident cycle parking spaces and 13 visitor spaces. In this regard the application falls well short of the requirements of the Apartment Guidelines.
- 8.10.4. The guidelines detail that deviation from these standards shall be at the discretion of the planning authority and shall be justified with respect to factors such as location, quality of facilities proposed, flexibility for future enhancement / enlargement, etc. DCC's Transportation Planning Division did not consider the applicants proposal acceptable and sought further information in this regard.

- 8.10.5. In their appeal the applicants contend that given the proximity of public transport services the provision of 30 spaces is sufficient to ensure a high standard of residential amenity.
- 8.10.6. Notwithstanding the proximity of the site to public transport and considering that no car parking spaces are to be provided I tend to agree with DCC's Transportation Planning Division that one cycle space per bedroom should be provided. I also consider that 13 visitor spaces should be provided to ensure there is no conflict between the provision of the overall development of these lands with permissions granted under 2158/17, 4387/18 and 3404/20.
- 8.10.7. In my opinion, the non-provision of cycle spaces in accordance with the Apartment Guidelines impacts upon the overall quality of the scheme and has not been justified as per section 4.17 of the Guidelines.

## **8.11. Appropriate Assessment**

### **8.11.1. Stage 1 Screening**

- a) A screening report for Appropriate Assessment was not submitted with this application or appeal. Therefore, this screening assessment has been carried de-novo.
- 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.

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

The proposed development comprises of the construction of a part 3, part 4, part 6-storey apartment block comprising 25 no. apartments. The development is proposed as a phase of the development permitted under Reg. Ref. 2158/17 and Reg. Ref.

4637/18. The site is located to the eastern side of a larger development site and bounds existing single storey housing to its east. 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.

### 8.11.3. 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. 9km 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. 8.6km 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. 9 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. 8.6 km 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.

#### 8.11.4. **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, the nearest downstream pathway to designated sites from the appeal site would appear to be the River Camac c. 100m north of the site. The Camac is a tributary of the River Liffey joining it c.3km to the site's north east before discharging to Dublin Bay. There is existing urban development including a hotel and its grounds between the application site and the River Camac and I am satisfied that significant effects from the development would not be likely in this context and there are no direct pathways to European Sites.

#### 8.11.5. **Potential Effects**

Having regard to the urban context and the residential 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.

Section 2.2 of the Engineering Services Report submitted with the application details proposals for surface water and to utilise Sustainable Urban Drainage Systems

(SUDs) including attenuation and permeable paving, therefore 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 on the Old Naas Road 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). It goes on to detail that increased flows from this project to Ringsend WWTP, individually or cumulatively are not likely to have a significant impact on protected 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.

#### **8.11.6. In-combination Impacts**

The proposed development of 25 units must be considered in the context of the adjoining development to which the development is proposed as a phase of. The adjoining development is for 103 apartments and is nearing completion. Having regard to the small scale of this proposal and the above findings of no likely significant effects from the proposal, I am satisfied that likely significant in-combination impacts would not arise in this context.

#### **8.11.7. 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 be refused for the following reasons-

## 10.0 Reasons and Considerations

1. Having regard to-

- a. the height and siting of the proposed development on and to the east of permitted communal amenity space under planning reference numbers 2158/17, 4387/18 and 3404/20,
- b. the eight storey height of the developments permitted and under construction to the south and west
- c. the permitted communal amenity space

it is considered that the proposed development would result in a substandard quantum and quality of communal amenity space for the proposed development and as consequence, for the permitted developments under planning reference numbers 2158/17, 4387/18 and 3404/20. The proposed development would therefore have an unacceptable impact on overall quality and size of communal amenity space in terms of direct sunlight which as a result would seriously injure the residential amenities of the future occupants of the proposed and permitted apartments, would be contrary to the provisions of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2018 (DoHPLG), the provisions of BRE209 - Site Layout Planning for Daylight and Sunlight: A

Guide to Good Practice' and the proper planning and sustainable development of the area.

2. Based on the information submitted with the application and appeal, and having regard to the orientation, height and extent of the proposed development, and its proximity perpendicular to and opposite eight storey developments permitted under planning reference numbers 2158/17, 4387/18 and 3404/20, it is considered that-
- the proposed development would overshadow and overlook a number of apartments, rooms and private amenity spaces of the adjoining building under construction and thereby seriously injure the residential amenities of future occupants of permitted apartments in terms of access to daylight and privacy
  - adequate daylight to single aspect apartments in the proposed development has not been demonstrated and thereby the development as proposed would give rise to substandard residential amenity for future occupiers of the proposed development.

The proposed development would, therefore, be contrary to the provisions of the Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities 2018 (DoHPLG), Section 16.10.1 the Dublin City Development Plan 2016-22- Residential Quality Standards, Housing Policy H2 of the Naas Road LAP 2013-23, BRE209 - Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' and the proper planning and sustainable development of the area.

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Adrian Ormsby  
Planning Inspector

02<sup>nd</sup> of July 2021