



An
Bord
Pleanála

Inspector's Report ABP309465-21

Development	Construction of a new 3-storey Apartment scheme to accommodate 6 two-bed and 3 one-bed apartments together with off-street parking and associated works.
Location	Site to the rear of Nos. 1 to 4 Newbury Wood fronting onto the Clonshaugh Road, Dublin 17.
Planning Authority	Dublin City Council.
Planning Authority Reg. Ref.	2943/20.
Applicant(s)	Pramukh Gogineni.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant(s)	Aisling Farrell.
Observer(s)	None.
Date of Site Inspection	16 th March, 2021.
Inspector	Paul Caprani.

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1.0 Introduction

ABP 309465-21 relates to a third-party appeal against the decision of Dublin City Council to issue notification to grant planning permission for the construction of a 3-storey apartment scheme comprising of 9 no. one and two bedroomed apartments. The grounds of the third-party appeal which was submitted by Aisling Farrell on behalf of a number of residents in the vicinity, expresses concerns in relation to the impact of the proposal on the residential amenity and privacy of adjoining dwellings through overlooking, overshadowing and noise as well as concerns in respect of traffic generation and visual impacts. The subject site is located on the eastern side of Clonshaugh Road opposite the Clonshaugh Business and Technology Park in the northern environs of Dublin City.

2.0 Site Location and Description

- 2.1. The appeal site is located midway along the eastern side of Clonshaugh Road which runs in a north-south direction linking Coolock Lane (the R104) to the south with the R139 to the north which links the Northern Cross with the M50. The area is characterised by a large business and technology park on the western side of the Clonshaugh Road which stretches westwards to the M50. Lands on the eastern side of the road are predominantly residential in nature. The subject site is roughly rectangular in shape and is currently vacant. It occupies an area of 1,205 square metres (0.12 hectares). It is surrounded to the north and east by block capped walls. A c.2 metre high palisade fencing runs along the front boundary of the site. A small laneway leading to two no. two-storey semi-detached houses to the rear of the site runs along the southern boundary of the site; these dwellings are referred to in the grounds of appeal as No 1 and No.2 'Faraya'. A single storey dwelling is located further south of the laneway fronting onto the Clonshaugh Road. A dense mature hedgerow runs along the southern boundary of the site separating it from the adjacent laneway. Lands to the north of the site are occupied by two-storey semi-detached dwellings which front onto Newbury Wood a suburban residential estate. The rear gardens of these houses back onto the northern boundary of the site.

2.2. The Clonshaugh Road is a relatively busy road serving as a distributor road for the extensive residential development on the eastern side of the road and also as a link road between Coolock Lane/Oscar Traynor Road and the Northern Cross link route to the north. Access to the Clonshaugh Business and Technology Park is provided via an exclusive access onto the Oscar Traynor Road to the south-west.

3.0 Proposed Development

3.1. The original application was submitted on 30th June, 2020. It consisted of the following:

3.2. Planning permission is sought for a total of 9 apartments, 6 two-bedroomed apartments and 3 one-bedroomed apartments. 2 no. two-bedroomed apartments and 1 no. one-bedroomed apartment are located on each of the floors. The one-bedroomed apartments are 54 square metres in size while the two-bedroomed apartments range from between 80 and 82 square metres in size. Each of the apartments incorporate a western facing balcony fronting onto the Clonshaugh Road. These balconies range from 5.5 square metres in size to 7.6 square metres in size. Each of the apartments incorporate storage areas of between 3.5 and 6 metres in size. The two-bedroomed apartments are dual aspect incorporating windows on both the east and west elevations. The top floor two-storey apartments incorporate bedrooms to the rear. It is proposed to naturally illuminate these rooms with the incorporation of openable skylights in the roof profile. High level slit windows are also proposed on the northern and southern elevation to serve the apartments at ground floor and first floor level. These windows are not included at the top floor level.

3.3. The building incorporates a flat roof and rises to a height of just over 9.2 metres. The external elevations incorporate a mixture of white and beige render finish. Dormer windows are incorporated on the external cladding at top floor level. Steel and glass balustrading are proposed around the balcony areas. Timber louvre screens are incorporated into some of the fenestration openings on the rear (east) elevation of the proposal.

3.4. A total of 10 car parking spaces are provided along the eastern boundary of the site one of which is a disabled space. A one-way circulatory access and egress system is proposed in and out of the site. A bin store area is also located at the south-eastern

corner of the site. Communal open space is located to the front of the building adjacent to the footpath on Clonshaugh Road and an area of incidental open space is also located at the north-eastern corner of the building. 9 cycle parking bays are located within this area of open space. A pedestrian footpath runs around the perimeter of the building. The site layout plan indicates that existing mature trees along the southern boundary of the site separating it from the laneway are to be incorporated into the scheme. A 2.6 metre high block wall is to run along the northern boundary of the site and a 2 metre high block wall is to run around the southern and eastern side of the site.

4.0 **Planning Authority's Decision**

4.1. **Decision**

- 4.1.1. Dublin City Council granted planning permission for the proposed development subject to 21 conditions.

4.2. **Documentation Submitted with Planning Application**

- 4.2.1. The application was accompanied by a design statement which sets out details of the proposal with a series of artist impressions of the completed design.
- 4.2.2. Also submitted with the application was a Water Services Report detailing foul water drainage, surface water drainage and water supply arrangements.

4.3. **Initial Assessment by the Planning Authority**

- 4.3.1. A number of **letters of objection** were submitted to Dublin City Council outlining various concerns in relation to residential amenity particularly in relation to impact on privacy. The contents of these letters of objection have been read and noted.
- 4.3.2. A report from the **Engineering Department Drainage Division** stated that there was no objection to the proposed development subject to a number of conditions.
- 4.3.3. A report from the **Transportation Planning Division** requested further information in relation to the external circulation around the building which is considered to be

'car dominant'. Further details are also required in respect of sightlines and sweep path analysis.

4.3.4. The applicant is also requested to provide rationale for the proposed quantum of parking and to submit a car parking strategy associated with the development.

4.3.5. Also requested is a mobility management/travel plan and further details in relation to the type and quantum of bicycle parking to be provided.

4.3.6. The initial **planner's report** assesses the proposed development in terms of apartment quality, communal open space and site layout and height and visual impact. The report concludes that additional information is required in relation to the following:

- Further information to address the concerns set out in the Transportation Planning Report.
- The applicant is requested to provide a servicing and operations plan detailing servicing and deliveries.
- Concerns are expressed in relation to the communal open space layout.
- It is also noted that any car parking should have appropriate planting adjacent to parking bays broken into groups.
- Further details are requested in relation to relevant distances to boundaries.
- The applicant is also requested to re-examine the location of the communal bin storage.
- The applicant is also requested to examine the proposal of serving the bedrooms at top floor levels to the rear of the block by rooflights. This is considered to be substandard. The applicant is therefore requested to investigate altering the layout of the second-floor plan.
- The applicant is requested to provide a shadow analysis of the scheme.
- The applicant is requested to demonstrate the effect of the proposed louvres to the oriel windows to the rear.
- Finally, the applicant is requested to reconsider the use of a beige render to the front of the three-storey feature on the front elevation.

4.4. Additional Information Submitted

- 4.4.1. Additional information was submitted on the 15th December, 2020. It included:
- Revised drawings.
 - Mobility management plan.
 - Visibility splay drawing.
- 4.4.2. The revised site layout plan incorporates two pedestrian gates with a two-way vehicular driveway along the northern boundary providing access to nine spaces in the north-eastern corner of the site together with a set-down delivery area. Lands in the south-eastern corner to the rear of the building provides for 20 bicycle parking spaces and a rectangular open space/play area. Private gardens are provided to serve the ground floor units at the front of the building.
- 4.4.3. Details of sightlines are indicated on Drawing 19376-CEA-RFI-XX-A-0004-P01. The drawings indicate that sightlines of 45 metres are available in each direction at the proposed entrance. Two motorcycle vehicle parking spaces are also provided.
- 4.4.4. The applicant has also submitted a separate mobility management plan/travel plan which sets out strategies to reduce reliance on the private car and encourage more sustainable forms of transport. The 20 bicycle spaces to be provided will now be provided within a lock-up timber shed.
- 4.4.5. In terms of communal open space, the total courtyard area to be provided in the south-east of the scheme amounts to 162 square metres which is 100 square metres more than the minimum requirement. Details of the landscaping are also set out in the grounds of appeal.
- 4.4.6. The refuse storage area has now been relocated to the south-western corner of the site adjacent to the Clonsaugh Road.
- 4.4.7. The skylights to the bedrooms have been replaced by zinc clad box dormer windows which allow adequate light into the bedrooms without changing the basic apartment layout. To avoid overlooking these windows will be screened with louvre screens and this is indicated on Drawing 19376-CEA-RFI-XX-A-011-P01.
- 4.4.8. Shadow analysis drawings have been submitted and these, it is argued demonstrate that there will be no major overshadowing of neighbouring properties.

- 4.4.9. With regard to the rear bay/oriel windows it is stated that these windows will have one side with clear glazing and a timber screen, and the other side will have opaque glass. The clear glass section will have views naturally directed to the side of the property and downwards as the louvres will be set at a downward angle so as to avoid overlooking of property to the east or to the north.
- 4.4.10. Finally, it is stated that the projecting three-storey feature window on the front elevation will incorporate a light-coloured reconstituted stone.

4.5. **Further Assessment by Planning Authority**

- 4.5.1. On foot of reviewing the information, the **Transportation Planning Division** recommends that, should a planning permission be forthcoming a total of five conditions be attached to the grant of planning permission.
- 4.5.2. The **planning report** notes that the slightly relocated block closer to the southern and western boundary moves it further away from the dwellings in Newbury Wood to the north and the dwelling to the east. The overshadowing analysis undertaken indicates that the proposed three-storey block would not have an excessive or undue overshadowing impact. The level of impact that would occur would not be unacceptable on surrounding residential amenities. The new location for the bins and refuse area is welcome. The rearrangement of the parking and the reduction in hard surfacing is also welcome. It is suggested however that a degree of planting would be required along the northern and eastern boundary to buffer the car park from adjoining gardens.
- 4.5.3. The site and layout of the communal open space is also considered positive and represents an improvement.
- 4.5.4. The use of obscure glazing and louvres in the windows on the eastern elevation at upper floor level is considered to be acceptable. It is therefore considered that the site can adequately accommodate the 9 apartments proposed without undue impacts on adjacent dwellings following the modifications proposed on foot of the additional information request. It is therefore recommended that planning permission be granted for the proposed development.

5.0 Planning History

- 5.1. No history files are attached.
- 5.2. The local authority planner's report states that there is no planning history associated with this site.

6.0 Grounds of Appeal

- 6.1. One third party appeal was submitted on behalf of a number of residents located in the vicinity of the appeal site. The issues raised in the submission are set out below.
 - Concern is expressed that the proposed development will result in the loss of privacy to the front and rear gardens of dwellings in the vicinity.
 - It is stated that the shadow test provided by the developer does not include all the properties in the vicinity.
 - The height and scale of the development is the largest of the street and will result in overlooking of surrounding houses.
 - The size and scale of the proposal is out of character with properties along Clonshaugh Road.
 - Concerns are expressed that the proposed development in conjunction with other recently permitted development in the area (35 apartment units and a new Lidl retail store at the southern end of Clonshaugh Road) will exacerbate problems in terms of entering and exiting the appellant's property (via the laneway to the immediate south of the site). The travel and mobility plan does not successfully address any concerns in this regard. It also results in children not being able to play near the road.
 - There are concerns in respect of the car parking spaces provided as this will cause further disruption along the road.
 - Concerns are also expressed in relation to noise pollution particularly in relation to construction noise.

- Additional concerns are expressed that the proposal will injure local ecology and wildlife associated with the hedgerow which runs along the southern boundary of the site.
- Separate concerns are expressed in relation to the overlooking of properties to the north and the rear gardens of Newbury Wood. The new building will cast a significant shadow over the back gardens of the houses to the north particularly during the winter period and this will have an impact on property values. There are also security concerns in respect of the parking bays which are to be located along the north-east boundary of the site.
- Apprehensions are expressed in relation to light pollution which will arise from the proposed development particularly at night-time.
- Disquiet is also expressed in respect of the location of the proposed entrance/exit to new development which is adjacent to the side gate of one of the adjoining neighbour's properties. This side gate currently provides vehicular access to the rear of the appellant's house at No. 1 Newbury Wood. The proximity of the new entrance/exit will cause the appellant greater difficulties in accessing and egressing this side vehicular entrance.
- It is also requested that if the development goes ahead, that the builder provide acoustic screening to monitor noise, vibration and dust.
- It is further requested that the Board restrict working hours so as to commence at 8 a.m. and not 7 a.m. Any potential structural problems which may occur need to be reported and the developer should not use Newbury Woods for machinery, trucks or staff cars.

7.0 Appeal Responses

7.1. Response from Planning Authority

Dublin City Council have not submitted a response to the grounds of appeal.

7.2. Response on behalf of Applicant

7.2.1. A response on behalf of the applicant was submitted by CEA Architects.

It is summarised below.

- In terms of overlooking of the appellant's property to the east, it is stated that the distance from the back façade of the building to the rear boundary is just over 15.3 metres which is in excess of a normal separation distance associated a residential property which would typically incorporate a rear garden length of 11 metres. It is noted that the two-storey houses to the north of the appellant's dwelling has a rear garden of only 8.38 from the appellant's rear garden. It is noted that in the case of the third-party appellant at No. 1 'Faraya' that this property is the furthest away of the two properties to the immediate east of the subject site and therefore the impact on privacy on this property would be negligible.
- It is argued that the height of the proposed scheme is two storeys with a dormer third floor. It is contended that this is not out of keeping with residential development in the area. Reference is made to 7 houses in the vicinity of the site where the attic level has been converted and dormer windows and skylights have been incorporated. Furthermore, windows at this third floor level will be screened with timber screens and opaque glazing as indicated in the information submitted as further information. Issues in relation to overlooking of adjoining gardens have been properly addressed in Condition No. 5.
- With regard to the shadow casting analysis undertaken by the applicant, it is stated that the shadow analysis does not show the appellant's property at 1 'Faraya' as this property is not an immediate neighbour to the rear of the proposed development. It does however clearly show the facing gable façade of No. 2 Faraya the closest dwelling to the east. The results clearly show that from March, June and September the sun's shadow will not significantly encroach on No. 2 to the east of the site and therefore no impact will arise in the case of the appellants dwelling. Any shadowing casting during the winter months would be in the late afternoon only from around 3 p.m. and it is noted that the sun sets at just after 4 p.m. during the winter solstice. It is suggested that the surrounding trees and boundary walls etc. during this period would also result in the rear garden being overshadowed.
- In terms of the overall height of the structure, the applicant points out that the building is a mere 0.7 metres higher than the apex of the roofs of

neighbouring houses along Newbury Wood. The building is designed as two-storeys with a dormer third storey at roof level. It is also decided not to incorporate a flat roof but to have a more subtle sloping roof in order to relate to the scale and character of neighbouring properties.

- In terms of traffic, it is stated that the vehicular entrance has been set back to allow for the continuation of the existing footpath and to incorporate appropriate visibility splays.
- In terms of the quantum of parking proposed, it is noted that the subject site is located in parking zone 3 which requires 1.5 bays per apartment. It should be noted however that this is the maximum rather than minimum standard to be applied. It is stated that a clear pedestrian movement network has been created on the site to encourage pedestrian movement and use of public transport. It is argued that the additional traffic generated by 9 additional residents' vehicles on the Clonshaugh Road is negligible. The shifting of the entrance to the northside of the site will also alleviate the appellant's concerns in relation to traffic.
- It is stated that Sustainable Urban Drainage will be incorporated into the surface water infrastructure for the site to allay any concerns in terms of surface water drainage.
- With regard to noise pollution during construction, reference is made to Condition 12(c) of Dublin City Council's decision to grant planning permission which requires the submission of a Construction Management Plan. Furthermore, the Board are requested to note that the site in question has been registered on the vacant sites register and the subject site is suitable for housing development in an area of housing need. It is also noted that leaving these sites vacant can lead to increased anti-social activity.
- In terms of impact on ecology and wildlife, it is stated that it is the intention of the contractor to maintain the existing trees along the laneway as they form an important screening element to the residents to the south of the proposal.
- With regard to overlooking of dwellings to the north, it is stated that the distance between No. 3 Newbury Wood and the new development is a minimum of 22.8 metres which exceeds the minimum distance for first floor

windows facing each other at the rear of residential properties. In addition to this the applicant has incorporated high level strip glazing on the northern façade in order to successfully address overlooking. Any bathroom windows on the northern elevation will incorporate opaque glazing.

- In terms of security, the development has two security gates for pedestrians and a single security gate for vehicles so that only residents will have access to the development. Furthermore, it is suggested that vacant sites in themselves are more likely to attract anti-social activity than developed sites which will have a greater level of surveillance. It is suggested therefore that the development of the subject site will result in less of a risk from a security perspective. Any exterior lighting associated with the development will be subdued and will increase levels of security.
- In terms of children's play areas, it is stated that the site will be served by overlooked communal open space with appropriate landscaping to act as a play area for residents' children.
- The appeal response reiterates that the shadow casting analysis indicates that there will be a minimal impact arising from the proposed development in terms of shadow casting for periods outside winter months. It is concluded that the dwellings to the north of the subject site facing onto Newbury Wood would experience only limited overshadowing during the mid-winter period.
- In terms of close proximity of vehicular entrances, reference is made to suburban developments in the immediate vicinity where it is stated that it is not unusual for vehicular entrances to be located side by side.
- Issues in relation to noise construction and construction hours are dealt with in Conditions 19 and 20 of the Planning Authority's decision.
- In conclusion, therefore it is respectfully submitted that the proposed development is consistent with the proper planning and sustainable development of the area and it is recommended that permission be upheld in this instance.

8.0 Observations

No observations were submitted in respect of the current appeal.

9.0 Planning Policy Context

National Planning Framework

9.1.1. One of the key overarching goals set out in the National Planning Framework is to achieve compact growth. This is sought by carefully managing the sustainable growth of compact cities, towns and villages. It is noted that the physical format of urban development in Ireland is one of the greatest national development challenges. Presently the fastest growing areas are the edges and outside our cities and towns meaning:

- A constant process of infrastructure and services catch up in building new roads, new schools, services and amenities and a struggle to bring jobs and homes together meaning that there were remarkably high levels of car dependents and that it is difficult to provide good quality transport.
- A gradual process of rundown of the city and town centre.
- Development which takes places in the form of greenfield sprawl extends the physical footprint of the urban area and works against the creation of attractive liveable high quality urban spaces in which people are increasingly wishing to live, work and invest.

9.1.2. A preferred approach would be the compact development that focuses on reusing previously developed brownfield land building up infill sites which may not have been built on before and reusing and redeveloping existing sites and buildings. National Policy Objective 3B seeks to deliver at least half of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick and Galway within their existing built-up footprints. National Policy Objective 13 seeks that in urban areas, planning and related standards including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve

stated outcomes provided public safety is not compromised and the environment is suitably protected.

9.1.3. National Policy Objective 35 seeks to increase residential density in settlements, to a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

Rebuilding Ireland Action Plan for Housing and Homelessness

9.1.4. Pillar 3 of this national strategy seeks to build more homes by increasing the output of private housing to meet demand at affordable prices. In terms of housing supply requirements, it is noted that current completion levels must double in the next four years. There is also a need to increase the level of social housing. The Rebuilding Ireland Policy emphasises the need to supply and build more homes with delivery of housing across the four Dublin Local Authorities.

Sustainable Urban Housing Design Standards for New Apartments

9.1.5. These guidelines note that in the short term to 2020 the Housing Agency has identified a need for at least 45,000 new homes in Ireland's five major cities more than 30,000 of which are required in Dublin City and suburbs. This does not include the additional pent-up demand arising from undersupply of new housing in recent years. In broader terms, there is a need for an absolute minimum of 275,000 new homes in Ireland's cities up to 2040 with half of these located within built up areas. This necessitates a significant and sustained increase in housing output and apartment type development in particular. Specifically, there is a need:

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

9.1.6. In terms of identifying the types of locations within cities that may be suitable for apartment development the guidelines note the following:

- In central and/or accessible urban locations such locations are generally suitable for small to large scale higher density development that may wholly comprise of apartments. These include
 - sites within walking distance of the principle 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 metres to 1,000 metres) to or from high capacity urban public transport stops such as Dart or Luas, and
 - sites within easy walking distance i.e. up to five minutes to and from high frequency urban bus services.

Urban Development and Building Heights - Guidelines for Planning Authorities

9.1.7. These Guidelines again highlight the need for a development plan to place more focus in terms of planning policy and implementation on reusing previously developed brownfield land building up urban infill sites. It notes that increasing building height is a significant component in making the optimum use of the capacity of sites in urban locations where transport employment, services and retail development can achieve a requisite level of intensity for sustainability. Accordingly, the development plan must include the positive disposition towards appropriate assessment criteria that will enable the proper consideration of development proposals for increased building height linked with the achievement of greater density of development.

9.1.8. It is acknowledged that taller buildings will bring much needed additional housing and economic development to well-located urban areas and that they can also assist in reinforcing and contributing to a sense of place within the city or town centre.

9.1.9. The Guidelines note that statutory development plans have tended to be overtly restrictive in terms of maximum building heights in certain locations and crucially without the proper consideration of the wider planning potential of development sites.

Such displacement presents a lost opportunity in key urban areas of high demand for new accommodation whether it is for living, working, leisure or other requirements in the built environment.

- 9.1.10. Planning policy must therefore become more proactive and more flexible in securing compact urban growth through a combination of facilitating increased densities and building heights while also being mindful of the quality of development and balancing amenity and environmental considerations. Appropriate identification and siting of areas suitable for increased densities and height will need to consider environmental sensitivities of the receiving environment as appropriate throughout the planning hierarchy.

Development Plan Provision

- 9.1.11. The site is governed by the policies and provisions contained in the Dublin City Development Plan 2016-2022. The subject site is zoned Z1 '*to protect, provide and improve residential amenities*'. Residential use is a permissible use under this zoning.
- 9.1.12. Chapter 5 of the development plan relates to Quality Housing.
- 9.1.13. Policy QH5 seeks to promote residential development addressing any shortfall in housing provision through active land management and co-ordinated planned approach to developing appropriately zoned lands at key locations including regeneration areas, vacant sites and underutilised sites.
- 9.1.14. Policy QH6 seeks to encourage and foster the creation of attractive mixed use, sustainable neighbourhoods which contain a variety of housing types tenures with supporting community facilities, public realm and residential amenities which are socially mixed in order to achieve a socially inclusive city.
- 9.1.15. Policy QH7 seeks to promote residential development at sustainable urban densities throughout the city in accordance with the core strategy having regard to the need for high standards of urban design and architecture and to successfully integrate with the character of the surrounding area.

- 9.1.16. Policy QH8 seeks to promote the sustainable development of vacant or underutilised infill sites and to favourably consider higher density proposals which respect the design of the surrounding development and character of the area.
- 9.1.17. Policy QH18 seeks to promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and with each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood, in accordance with standards for residential accommodation.
- 9.1.18. Policy QH19 seeks to promote the optimum quality and supply of apartments for a range of needs and aspirations, including households with children, in attractive sustainable mixed income, mixed use neighbourhoods supported by appropriate social and other infrastructure.
- 9.1.19. In terms of aspect natural lighting and sunlight penetration the development plan notes that daylight animates the interior and makes it attractive and interesting as well as providing light to work or read by. Good daylight and sunlight contribute to making a building energy efficient, it reduces the need for electronic lighting while winter solar gain and reduce heating requirements.
- 9.1.20. The indicative plot ratio for Z1 zonings in the inner city is 0.5 to 2.0 and the indicative site coverage for sites governed by the Z1 zoning objective is 45 to 60%.

9.2. **EIAR Screening Determination**

On the issue of environmental impact assessment screening I note that the relevant classes for consideration are Class 10(b)(i) "construction of more than 500 dwelling units" and Class 10(b)(iv) "urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere". Having regard to the modest size of the site at 0.12 hectares and the number of units to be provided at 9, which is considerably below the 500 dwelling threshold, it is considered that, having regard to the nature and scale of the proposed development, the location of the development on an urban brownfield site together with the characteristics and likely duration of potential impacts, that the proposal is not likely to have significant effects on the environment and that the submission of an environmental impact assessment report

is not required. The need for an environmental impact assessment can therefore be excluded by way of preliminary examination. An EIAR preliminary examination form has been completed and a screening determination is not required.

9.3. **Natural Heritage Designations**

9.4. The subject site is not located within or contiguous to a Natura 2000 site. The nearest Natura 2000 sites are located c. 5km away. They are the North Bull Island SAC (Site Code 000206) and The North Bull Island SPA (Site Code 004006).

10.0 **Planning Assessment**

I have read the entire contents of the file, visited the subject site and its surroundings, have had particular regard to the issues raised in the third-party appeal and the applicant's response to the concerns raised. I consider the following issues to be critical in determining the current application and appeal before the Board.

- Principle of Development
- Residential Amenity Issues
- Height, Mass and Scale of the Proposed Development
- Traffic and Parking Issues
- Wildlife and Ecology
- Construction Issues

10.1. **Principle of Development**

10.1.1. A fundamental consideration in adjudicating on the current application is the zoning provisions pertaining to the site. The subject site is zoned Z1 and residential development is permitted under this zoning. The nature of the proposal in this instance is therefore wholly compatible with the zoning provisions pertaining to the site. The Board will also be aware that the City is experiencing an acute shortage of housing supply at present. The Board will also be cognisant of the fact that many policy statements contained in the National Planning Guidelines seek to emphasise

on maximising the development potential of urban sites particularly in relation to housing. The Board will be aware that a major thrust of the National Planning Framework seeks a preferred approach for more compact development that focuses on reusing previously developed brownfield land and building on infill sites within existing built-up areas. The above policy will help encourage more people, jobs and activities to be located in proximity within existing urban footprints. The plan seeks to deliver at least half of all new homes to be located in the five main cities particularly Dublin. This means that apartment developments will need to become a more prevalent form of housing particularly in Ireland's cities. National Policy Objective 35 seeks to increase residential development in cities through a range of measures including reductions in vacant sites, the reuse of existing buildings, infill development schemes, area or site based regeneration and increased urban heights. It is clear from the applicant's response to the grounds of appeal that the subject site has been registered on the vacant site's register and is therefore deemed suitable for development, particularly housing development.

- 10.1.2. The apartment guidelines referred to above, also highlight the need to provide higher density development in more accessible urban locations. The guidelines seek to provide more than 30,000 units within Dublin City and its suburbs.
- 10.1.3. It is therefore clear and unequivocal that the subject site complies with the zoning objective of the site and also complies with wider government policy which seeks to increase both building height and density in urban locations in proximity to services and public transport infrastructure.
- 10.1.4. On the basis of the above, I consider that the principle of a higher density apartment type development - which may somewhat depart from the prevailing character and style in the immediate vicinity – is, nevertheless be appropriate based on strategic land-use considerations. Strategic considerations set out above dictate that the provision of a higher quantum of development is necessary and appropriate on the subject site. The site offers a good opportunity to provide a scale of development which is more reflective of policies and objectives set out in the National Planning Guidelines. The wider strategic considerations are of critical importance in determining the current application. It is however acknowledged that any wider strategic considerations must be balanced against impacts on surrounding residential amenity. This includes the need to protect qualitative safeguards on the

residential environment surrounding the area. A more detailed qualitative assessment is set out under various headings below.

10.2. Residential Amenity Issues

10.2.1. Overlooking

Concerns are expressed that the proposed apartment development will give rise to excessive overlooking particularly in relation to the rear gardens of the houses to the north of the site at Newbury Wood and the two separate dwellings at No. 1 and 2 'Faraya' to the immediate east of the site.

In relation to overlooking to the north, the proposed apartment block is located between 16 and 22 metres from the rear elevations of the closest dwellings to the north. This in my view is an appropriate separation distance in an urban area in the case of a two-storey dwelling and a three-storey apartment block. The separation distances in themselves should ensure that no significant levels of overlooking would occur between buildings. The development plan notes that "*at the rear of dwellings there should be adequate separation between opposing first floor windows.*

Traditionally a separation of about 22 metres was sought between the rear of two-storey dwellings but this may be relaxed if it can be demonstrated that the development is designed in such a way to preserve the amenities and privacies of adjacent occupiers". The north elevation has incorporated high level slit windows to serve the habitable rooms along the northern elevation. This effectively and comprehensively mitigates against any potential overlooking of the rear gardens to the north. As the applicant points out in his response to the grounds of appeal windows serving bathrooms will incorporate obscure glazing thereby mitigating against potential overlooking.

The slight repositioning of the building within the revised design submitted to the Planning Authority slightly increases the separation distances between the proposed apartment block and adjoining sensitive receptors and this should also have a positive, if somewhat modest impact, in terms of addressing potential problems with overlooking.

With regard to the potential overlooking of the dwellings to the east, the applicant points out in his response to the grounds of appeal that the appellant in this instance resides at No. 1 Faraya which is the furthest of the two dwellings to the east of the

proposed site. The separation distance between the proposed building and the appellants dwelling is in excess of 25 metres. The separation distance between the building and the eastern boundary of the site is between 15 and 17 metres which is also a generous separation distance in an urban area.

In addition to the general separation distances, it is noted that the sawtooth window configuration on the eastern elevation at ground and first floor level incorporate both clear elevations with a timber screen on one side and opaque glass on the other side will form a very effective mitigation measure in terms of overlooking. It should be noted that the outer bedrooms to the rear on the northern and southern elevation are dual aspect and this should assist in both daylight and sunlight penetration into the rooms in question.

It is also proposed to incorporate timber louvres serving the bedrooms at second floor level on the eastern elevation. This in my view is also an effective instrument in mitigating against overlooking.

In terms of overshadowing, the proposed development will undoubtedly increase the level of overshadowing particularly in the case of the dwellings to the north of the site during the winter months and to a lesser extent in the morning time during periods associated with the vernal and autumnal equinox. However, any inevitable modest increase in overshadowing must be balanced against the wider strategic aims of developing the subject site at appropriate and sustainable densities as outlined in my assessment above. It is an inevitable consequence that any development in excess of two-storey's on an urban site will give rise to increased levels of overshadowing of adjoining gardens unless the site was to be developed at inappropriate and unsustainable densities.

The position of the proposed building in the south-western corner of the site minimises the potential for overshadowing. The overshadowing of gardens to the north are essentially restricted to the early morning and mid-morning times of the day during periods outside the summer months. It is clear from the shadow diagrams that the proposed building will have very little impact on the rear gardens of dwellings to the north during the summer months and it is during these months that the gardens will provide the highest levels of amenity for the occupants.

With regard to the dwellings to the east of the subject site, it is clear from the shadow diagrams that the proposed development will have a negligible impact on these dwellings to any appreciable extent. The shadow studies indicate that during the winter solstice the proposed development will give rise to overshadowing on lands to the east of the site prior to sunset. However, having regard to the existing vegetation boundary walls and dwellings in the vicinity it is likely that substantial parts of the site to the east experience significant levels of overshadowing in the absence of any development on the subject site.

Therefore, having regard to the need to develop infill vacant sites at appropriate and sustainable densities, I consider that the proposed development in this instance represents an appropriate compromise between providing an appropriate quantum of development on the subject site while safeguarding residential amenity in terms of overshadowing to an acceptable extent.

10.2.2. Security/Public Lighting Issues

Concerns were expressed in the grounds of appeal that the development of the subject site, and in particular the car park to be located at the north-eastern corner of the site, could provide a security risk via access to the rear gardens of the dwellings fronting onto Newbury Wood. The proposal is to incorporate a vehicular entrance and automated gate which should allay some security concerns. Furthermore, it is proposed the existing 2.6 metre high block wall along the northern boundary of the site is also to be retained. Perhaps more importantly with the development in place the subject site will incorporate extensively higher levels of passive surveillance which should reduce potential security threats. I would agree with the applicant in his response to the grounds of appeal that a vacant and derelict site such as that which currently exists presents a greater threat in security terms for existing dwellings in the vicinity.

With regard to public lighting, it is not accepted that the proposed development will in any way exacerbate or accentuate light pollution in the area. The subject site is located within an urban area that has high levels of artificial lighting. Therefore the development of the subject site will have a negligible impact in terms of contributing to the baseline light pollution existing in the area. The provision of additional lighting

associated with the development of the subject site will also contribute to creating a more secure environment in terms of anti-social behaviour etc.

10.3. Height, Mass and Scale of the Proposed Development

10.3.1. The proposed development extends to a maximum height of 9.265 metres. As the applicant points out, the height of the proposed apartment block is less than 1 metre higher than the ridge height of the adjacent dwellings to the north. Furthermore, lands on the opposite side of the Clonshaugh Road in the Clonshaugh Business Park, accommodate buildings of a much greater height, scale and mass than that proposed on the subject site. Therefore, the character of the area is not dominated by two-storey semi-detached dwellings but instead incorporate buildings of various size and scales along the Clonshaugh Road. In this regard, I do not accept that the proposed apartment block would constitute an incongruous or inappropriate addition to the streetscape. Furthermore, I would reiterate and re-emphasise that it is national and local policy to develop urban infill sites and more sustainable densities for reasons outlined above. The proposed apartment block at three storeys in height is not on an excessive scale and is therefore in my opinion appropriate to the site in question.

10.4. Traffic and Parking Issues

10.4.1. Concerns are expressed that the proposed development may not have provided adequate car parking to cater for the units in the proposed development and this could give rise to on-street car parking and parking congestion in the area. The subject site is located in parking zone 3 where there the standards permit a maximum of 1.5 car parking spaces per residential unit. However these are maximum standards. I consider the provision of one car parking space per unit to be appropriate in this instance. While the subject site is located in the periphery of the city environs c.8 kilometres north of the city centre, it can avail of relatively good public transport links along Coolock Lane and Oscar Traynor Road c.500 metres to the south of the site. Coolock Lane and the Oscar Traynor Road accommodate frequent bus routes including the 27B bus route which offers a very frequent service. The applicant has also submitted a mobility management plan which sets out sustainable travel strategies which would also reduce the reliance on the private car at the development.

10.4.2. With regard to traffic congestion along the Clonshaugh Road, I note that the road serves as an important distributor and collector road associated with residential developments on the eastern side of the road. However, the Clonshaugh Road does not act as a principal distributor road for the large Clonshaugh Business and Technology Park which is located on the western side of the road. This technology Park has a separate entrance onto Coolock Lane/Oscar Traynor Road to the west. As a result, traffic volumes are not excessively heavy along the Clonshaugh Road in the vicinity of the site. The incorporation of 9 additional car parking spaces will have a negligible impact on traffic volumes in the wider area. It would not be reasonable in my opinion to refuse planning permission for the proposed development on the basis that it could give rise to an unacceptable or unsustainable volume of traffic which could materially affect traffic volumes in the area.

10.4.3. With regard to the proximity of the access point to adjacent vehicular accesses serving No. 1 Newbury Wood and the laneway which serves the two dwellings to the east, I do not consider that the proposal would give rise to any significant or material road safety issues in this regard. As the applicant points out in the grounds of appeal, it is not unusual that two vehicular entrances would be located side by side in the various housing estates in the vicinity. Furthermore, many of the vehicular entrances serving houses in the vicinity are located in very close proximity to junctions in the residential areas in the vicinity of the subject site. The proximity of a new vehicular entrance serving 9 off-street car parking spaces in proximity to existing entrances in the vicinity is acceptable in my opinion and will not give rise to any road safety or traffic issues. There is sufficient sightlines in both directions at the proposed entrance to the site to ensure that no traffic safety issues arise.

10.5. **Wildlife and Ecology**

10.5.1. The subject site is located in an urban area on a site that is currently cleared and comprises of a hardstanding area which has been recolonised by trees and shrubs to some extent. It is clear from the drawings and the applicant's response to the grounds of appeal that the mature trees and hedgerows along the laneway to the south of the site are to be retained as part of the proposed development. This will ensure that any inherent ecology and wildlife associated with this treeline and hedgerow will be maintained during the operational phase of the development. The provision of a small communal garden to the south-east of the site will also support

and enhance the local wildlife and ecology of the area. A separate section on AA below assesses the potential impact arising from the proposed development on qualifying interests associated with Natura 2000 sites in the wider area.

10.6. Construction Issues

10.6.1. With regard to noise during the construction phase, the Board will be aware that any construction associated with the site will be temporary and therefore short-term in nature. Any elevated noise levels are a natural consequence of construction activities. Furthermore, Condition No. 19 of Dublin City Council's notification to grant planning permission requires that:

“During the construction and demolition phases, the proposed development shall comply with British Standard 5228 Noise Control on Construction and Open Sites Part 1 Code of Practice) for basic information on procedures and noise control.

Reason: *To ensure a satisfactory standard of development and in the interest of residential amenity.”*

10.6.2. Should the Board consider it appropriate to apply a similar condition, the applicant would be required to ensure that all operational machinery and construction activities on site comply with this code of practice.

10.6.3. With regard to construction times, Condition No. 20(a) states that site and building works required to implement the development would be permitted to commence at 7 a.m. during the morning times. Having regard to the residential environment for which the subject site is located, the Board in my view could consider revising the commencement time to 8 a.m. in the interest of residential amenity.

11.0 Appropriate Assessment

Having regard to the nature and scale of the proposed development and nature of the receiving urban environment together with the proximity to the nearest European site c.5km away. no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

12.0 Conclusions and Recommendations

Arising from my assessment above therefore, I consider the proposed development to be appropriate and I consider that the applicant in this instance has incorporated through the design and layout of the proposed development, acceptable mitigation measures to ensure that any potential impact on surrounding residential amenity would be acceptable. On this basis, I recommend that the Board grant planning permission for the proposed development.

13.0 Decision

Grant planning permission for the proposed development in accordance with the plan and particulars lodged based on the reasons and considerations set out below.

14.0 Reasons and Considerations

Having regard to the Z1 zoning objective relating to the site and the policies and provisions contained in the National Planning Framework, the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities (December 2020), it is considered that the proposed development, subject to compliance with conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the plans and particulars received by Dublin City Council on the 15th day of December, 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development

and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

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

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. The applicant or developer shall enter into a water and/or wastewater connection agreement with Irish Water prior to the commencement of development.

Reason: In the interest of orderly development.

5.
 - (a) The first floor windows to the rear of Apartment No. 4 (eastern elevation) shall have obscure glazing to the north face and clear glazing with louvres to the south face.
 - (b) The rear windows to Apartment 6 shall have obscure glazing to the south face and clear glazing with louvres to the north face. All louvres shall be angled and fixed downwards towards the communal open space area.
 - (c) The rear second floor windows to Apartments Nos. 07 and 09 shall have clear glazing with upward angled and fixed louvres.
 - (d) A 1.8 metre high obscure glazing side screens shall be applied to the northern side of the above ground floor level north-west corner balconies and also between the remaining front balconies/patios located to the southern side of the three-storey front bay structure and to the southern side of the south-west corner balconies.
 - (e) The rear first floor landing window shall be permanently fitted with

opaque glazing.

Prior to the commencement of development details of the above shall be submitted to the planning authority with section drawings no less than 1:50 scale for the written agreement of the planning authority.

Reason: To protect existing residential amenities and the amenities of future occupants.

6. The external refuse store shall be modified to maintain a minimum of 1.2 metres width to the footpath between the store and the main building. Details of which shall be submitted for the written agreement of the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

7. The area to the front and side of each of the ground floor apartments and the site boundary onto Clonshaugh Road shall be separated into individual gardens for the sole use of each of the ground floor units. Details of which shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of residential amenity of future occupiers.

8. The parking area shall be modified to provide a formal planting area of 500 millimetres between the north and east boundary walls and the car parking spaces. Details of the planting shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of residential and visual amenity.

9. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

- (i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native

species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder.

- (ii) Details of screen planting.
 - (iii) Details of roadside/street planting.
 - (iv) Hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment
- (c) A timescale for implementation including details of phasing.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

10. Prior to the occupation of the proposed development, an updated mobility management strategy shall be submitted to the planning authority for written agreement. The strategy shall address the mobility requirements of future residents and shall promote the use of public transport, cycling and walking and the use of car club spaces in the area. A mobility manager shall be appointed to oversee and co-ordinate the role of the strategy. The mobility management plan shall also incorporate a car parking management strategy for the overall development. Car parking spaces shall not be sold with the units but shall be assigned and managed as a separate capacity via leasing or permit arrangements.

Reason: In the interests of promoting sustainable transport.

11. The development shall be managed in accordance with construction management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This plan shall provide details of the intended construction practice for development, including hours of working, noise management measures and off-site disposal of construction and demolition waste.

Reason: In the interest of public safety and residential amenity.

12. All car parking spaces shall be future proofed by the inclusion and ducting and/or cabling to permit the rapid future installation of electric vehicle (EV) charging points.

Reason: In the interest of promoting sustainable transport.

13. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

15. The site development and construction work shall be carried out in such a manner so as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: To ensure that the adjoining roadways are kept clean and in a safe condition during construction works and in the interest of orderly

development.

16. The naming and numbering of the scheme shall be agreed in writing with the planning authority prior to the occupation of units.

Reason: In the interest of orderly street numbering.

17. A plan containing details for the management of waste (and in particular recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of waste and in particular recyclable materials and for the on-going operation of these facilities within the apartment complex shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Thereafter the waste shall be managed in accordance with an agreed plan.

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

18. No additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant other than those shown in the drawings submitted unless authorised by a prior grant of planning permission.

Reason: To safeguard the amenities of surrounding occupiers and the visual amenities of the area.

19. During the construction and demolition phase the proposed development the comply with British Standard 5228 “Noise Control on Construction and Open Sites Part 1: Code of Practice for Basic Information and Procedures of Noise Control”.

Reason: To ensure a satisfactory standard of development, in the interest of residential amenity.

20. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the [residential] amenities of property in the

vicinity.

21. The developer shall pay to the planning authority a financial contribution of €60,694 (sixty thousand six hundred and ninety-four euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

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

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

Reason: To ensure the satisfactory completion of the development.

Paul Caprani,
Senior Planning Inspector.

20th May, 2021.